TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 359.

THE UNITED STATES, APPELLANT,

vs.

WILLIAM A. CLARK.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

VOL. VII OF TESTIMONY (PAGES 3169 TO 3696, INCLUSIVE).

FILED JULY 26, 1905.

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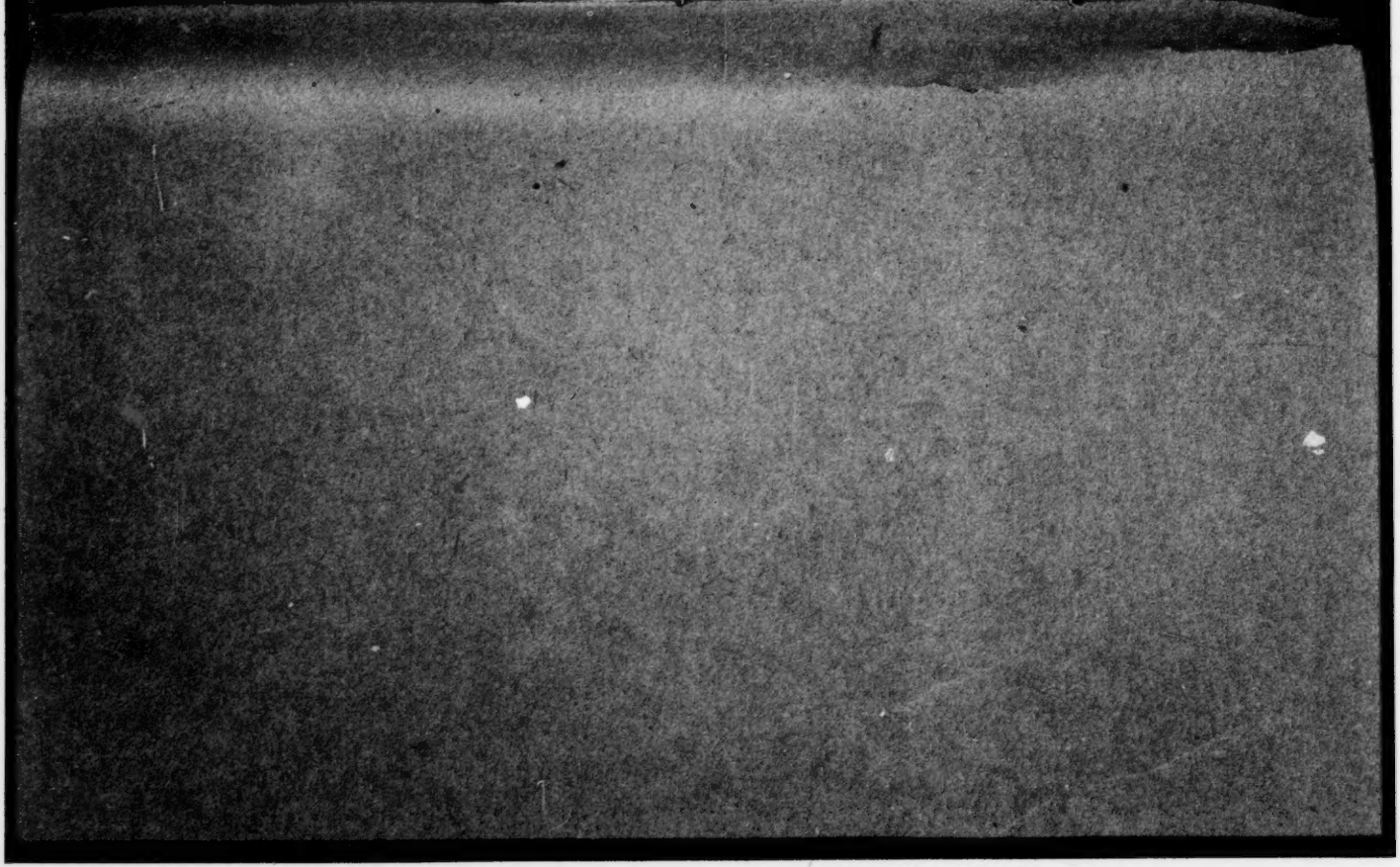

No. 1070

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT.

TRANSCRIPT OF RECORD.

THE UNITED STATES OF AMERICA,
Appellant,

vs.

WILLIAM A. CLARK,
Appellee.

TESTIMONY.

VOL. VII

Pages 3169 to 3696, inclusive.

Upon Appeal from the United States Circuit Court for the District of Montana.

The Filmer Brothers Co. Print, 424 Sansome St., S. F.

(Testimony of John B. Reeve.)

Q. Then he gave you the numbers and you went back to Missoula?

A. Yes, he took the numbers off the trees on the land that were marked.

Q. And gave you the descriptions?

A. We took the descriptions off the trees on the lands that we selected.

Q. The land that Albert picked for you?

A. The land that Albert took us to was designated by section and township, and those sections and townships were selected—the sections and townships that we selected our claims from, we took the numbers from the trees and carried them to Missoula.

Q. And those claims Jemison told you were vacant?

A. Jemison told me that two or three sections there were vacant. That no people had ever filed on them. He was supposed to know.

Q. Why was he supposed to know?

A. Because he was working for Mr. Griswold.

Q. Because he was working for Mr. Griswold?

A. He claimed to be.

Q. How do you know that?

A. Albert Jemison told me that.

Q. Who was Griswold working for?

A. I don't know.

Q. He did not tell you that? A. No, sir.

Q. Did he tell you what he was doing?

A. Told me he was locating people on timber claims.

Q. And what were people going to do after they had located on timber claims?

(Testimony of John B. Reeve.)

A. I suppose they were going to take it up and do whatever they could, or rather that is what I did myself.

Q. And so Griswold undertook to send you to Jemison to locate you?

By Mr. WALSH.—We object to that, as calling for a conclusion from the witness.

Q. Well, how much was, how much were you going to pay Mr. Griswold for locating you?

By Mr. BICKFORD.—We object to that because it assumes a fact that has not been testified to by the witness, and further because it is leading, and it is also irrelevant and immaterial.

A. Mr. Griswold agreed to locate me on my claim, and give me the exact number of feet of lumber and timber there was on the claim, and engage a loan for me, so that I could get my money to prove up on that claim, for $100.00. Under those arrangements he sent me to Mr. Jemison.

Q. You were to pay him $100?

A. He was to get $100.00.

Q. Who from?

A. I suppose it was to come out of me. I agreed that he should have it.

Q. Then you agreed to pay him $100?

A. For locating me on a good timber claim, and giving me the estimates of the timber on it.

Q. That is, on your piece of land?

A. Yes, sir, and he was also to engage a loan for me.

(Testimony of John B. Reeve.)

Q. Yes, on your piece of land?

A. Yes, just on my piece of land, yes, sir.

Q. How much were you to give him for Starkie's claim?

A. I did not make any bargain with Mr. Griswold about Starkie's claim. Mr. Starkie done his own business about his claim.

Q. Do you know whether he done anything or not?

A. I don't know anything about it. Don't know what he did.

Q. Well, what makes you say that?

A. Well, simply because I did not; that is the reason I said it.

Q. I know, but what makes you say he made his own arrangements with Mr. Griswold?

A. Because I was not doing his business.

Q. You don't know whether any arrangements were made or not?

A. There must have been some arrangements made.

Q. Why?

A. I don't know, I never inquired into it.

Q. Didn't you tell me a moment ago that you and Mr. Griswold had this talk at the Florence Hotel, and that Starkie was not there, and that you went and had this talk with Starkie? A. Yes, sir. Sent him to Griswold.

Q. I understood you to say that the next morning, you and Starkie started off and overtook Mr. Jemison?

A. I did not see him, but Mr. Starkie did.

Q. How do you know he did?

(Testimony of John B. Reeve.)

A. I suppose he did, because he was ready to go with me the next morning.

Q. You are now swearing to what you supposed. Do you have any knowledge about that?

A. Any knowledge about what?

Q. That Starkie had seen Mr. Griswold?

A. About what?

Q. Of Starkie having seen Griswold before you and Starkie started and overtook Jemison?

A. I suppose he did.

Q. Did he tell you so?

A. I don't remember whether he did or not.

Q. Well, without having any remembrance of having seeing him, how do you know that he had seen him?

By Mr. BICKFORD.—He has already answered that question.

A. Well, I don't know that he had seen him, but I suppose that he had seen him. That ought to be perfectly plain to any common sense man.

Q. Well, can you give any reason, or assign any reason now, why you supposed that Mr. Starkie, between the time when you started and the time when you had seen Mr. Griswold, had seen Mr. Griswold?

A. Well, Starkie is a man that never tells me anything about his business, one way or the other.

Q. Well, what leads you to believe that he had a conversation with Griswold before you and him overtook Albert Jemison up there, as you have testified?

A. Well, as I said, he never tells me any of his busi-

(Testimony of John B. Reeve.)

ness. I often get mad at him because he don't. He keeps everything to himself. He keeps everything that he does to himself and from me, and I presume from everybody else.

Q. And is that the reason you now assign for the believing that he had seen Mr. Griswold?

A. I believe he had seen Mr. Griswold simply because it was to his interest; it was to his interest to see Mr. Griswold.

Q. And that is all the knowledge that you have on the subject?

A. I have no knowledge of his seeing him. I was not with him when he seen him.

Q. When did he tell you that he had seen him?

A. Oh, I don't remember that he did. He did not tell me anything. He never tells me anything. If you will observe, Mr. Starkie is an Englishman, and he is a very close-mouthed fellow, and don't tell his business. He is like all Englishmen in that respect.

Q. You are not an Englishman, are you?

A. No, sir, I am not. I can tell everything I know in five minutes, if I am permitted to.

Q. Well, now, I am interested in the question as to whether or not you did pay Mr. Griswold $100?

A. Not directly. I did not.

Q. Did you ever pay him one cent for his services in the matter directly? A. Not directly; no, sir.

Q. Well, did you indirectly?

A. Indirectly, he received his pay.

(Testimony of John B. Reeve.)

Q. Now?

A. Well, now, I could not say exactly how. I could not tell you exactly how—because I was not conversant—I was not conversant with his business.

Q. Did you not swear a moment ago that you did pay him indirectly?

A. I say still, he received his pay indirectly and it came out of me.

Q. Well, state what you know about that?

A. When I engaged him—engaged my loan with Mr. Cobban, he assumed $100 that I was to pay—he was to pay that for me, or, in other words, I was to pay him the $100 whenever I disposed of my timber, and Mr. Griswold was supposed to get it, or get his pay before he was entitled to it, as I understand it, Mr. Cobban charged a great many people a hundred dollars for which Mr. Griswold was doing business for Mr. Cobban in that line.

Q. Is that what Cobban charged you?

A. That is what Mr. Cobban would have charged me if I had gone to him directly, but when I stated that I had to pay $100, he said that wasn't the real price of the loan—for locating people and the use of the loan.

Q. When was it that you saw Mr. Cobban and had this talk with him?

A. Directly after I filed on my timber claim.

Q. You had not seen him before?

A. No, sir, not in regard to that.

Q. I mean in regard to that. Did you say that you saw him the same day that you filed?

(Testimony of John B. Reeve.)

A. No, sir, I did not.

Q. How many of you filed on the same day?

A. Two of us.

Q. And who were they?

A. Robert Starkie and myself.

Q. You did not see Mr. Cobban nor anybody else in his office previous to your filing?

A. Previous to my filing?

Q. Yes, in regard to this matter?

A. No, not in regard to this matter, not in Mr. Cobban's office.

Q. Well anywhere else?

A. I saw Mr. Griswold, as I have stated before, there in the Florence Hotel—or, rather, in front of the Florence Hotel.

Q. Well, I mean after you came down—about the time of filing? A. After I came back from the timber?

Q. Yes, sir.

A. I saw nobody to talk to about the matter, until after I had filed on my claim.

Q. You had not?

A. No, sir. Except Mr. Catlin. I went to him to get him to make out my final papers.

Q. I was just going to ask you that. Wasn't Mr. Catlin working for Mr. Cobban?

A. I don't know, I could not swear whether he was or not, because I did not ask him the question. Whether he was working for Mr. Cobban or not. I know he made out my papers, in fact, I got him to make out this contract

(Testimony of John B. Reeve.)

with the county, then I asked Mr. Cobban to go on my bond.

Q. Was Mr. Catlin's office in Mr. Cobban's office?

A. He was in the Higgins Bank. There was several offices in the Higgins Bank. I don't know whether it was Mr. Cobban's office or whose office it was. Mr. Pound had an office there.

Q. Did Mr. Dinsmore have an office there?

A. Yes, sir.

Q. Was it not the office of Cobban and Dinsmore?

A. It was all there, maybe it was.

Q. And it was in this building with Cobban and Dinsmore? A. What is that?

Q. I say that it was in this building of Cobban & Dinsmore that Cobban & Dinsmore had their office when you went to have your papers filled up? A. Yes, sir.

Q. And he filled out your blanks?

A. Yes, sir.

Q. And this original statement is signed by you, is it not?

A. Yes—let me see, I can tell you whether it is or not. I am the poorest writer in the world. There is not a man in the world that can write as poor as I can.

Q. John B. Reeve—there, is that your signature? (Counsel hands witness his original statement in this matter.)

A. That is my signature; yes, sir.

Q. I think that is a pretty good signature?

A. Yes, sir.

(Testimony of John B. Reeve.)

Q. And all the rest of this answer was written by Catlin was it? That is, this matter here that is not printed?

A. I believe it was.

Q. What is that? A. I believe it was.

Q. Except this down here September the 9th—September, 1899, Elmer E. Hershey?

A. I suppose Mr. Hershey must have written that.

Q. Well, very well, there is one kind of ink to the body of the statement here, in the handwriting of Catlin, is it not?

A. I could not swear that it is in the handwriting of Catlin. I got Mr. Catlin to fill it out. I gave him the numbers of my claim, and told him I wanted him to fill out my papers for me on my claim, and I went away and returned to the office, and when I came back they were filled out. I would not be sure when they were filled out.

Q. Did you tell him to do the same thing with Starkie's claim? A. I did not.

Q. Starkie attended to his own matter, did he?

A. Starkie attended to his own matter; yes, sir.

Q. So it is written in one colored ink here, filled out, and then you signed your name to it?

A. That writing was all filled out before I signed my name to it, I think.

Q. And this acknowledgment of Hershey's, in another kind of ink, was made when you went to the land office and filed it, and he swore you to it, didn't he?

By Mr. BICKFORD.—At this time I desire to interpose an objection to the examination, and the sworn

(Testimony of John B. Reeve.)

statement from which the witness is testifying. It all seems to be written in black ink, and when counsel draws a distinction between the different colored inks, I want it to appear upon the record that the color of the ink is the same in each instance.

By Mr. MAYNARD.—Well, I understand that the color is entirely different. The color of the ink in the original is in black ink, and the signature is in another kind of ink, and the ink used by the register is another kind.

Q. Now, then, it was a mere coincidence that you went to Mr. Catlin's office; you didn't expect to see Mr. Cobban there, did you?

A. Why, I never went in there without seeing him in there. I really never went in there without seeing him, if he was in town.

Q. Oh, it didn't occur to you to see Mr. Cobban in regard to the money question?

A. Not at that time, no, sir.

Q. Why not?

A. Simply because I had other people in view.

Q. You had others in view about getting the money?

A. Yes, sir, I had another scheme on foot.

Q. What was that scheme?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial.

A. That scheme was, after I had proved up on my land, to log the timber, if I could make the proper arrangements with the Blackfoot Milling Company; and

(Testimony of John B. Reeve.)

if I could make such arrangements, I could borrow four or five hundred dollars of them.

Q. I see; that was a good scheme. Did it work?

A. No, sir, it did not.

Q. What was the trouble with it?

A. The trouble was simply because they didn't let any contracts that fall. They had decided to do no logging that fall, except just at one or two camps that the company owned themselves.

Q. When did you first find that out—after you had filed? A. After I had filed?

Q. Yes, sir.

A. I think it must have been a month or six weeks after I had filed, that I went to see Mr. Totman, to inquire if there was any contracts.

Q. A month or six weeks after you had filed, then, in pursuance of this scheme you had in your mind, you went to Mr. Totman to enquire what?

A. If they were letting any contracts.

At this point an adjournment was taken until ten o'clock A. M., Tuesday, March 25th, 1903.

HENRY N. BLAKE,
Examiner in Chancery.

Tuesday, March 25th, 1902, 10 A. M.

Hearing resumed pursuant to adjournment.

Thereupon the direct examination of the witness JOHN B. REEVE, was continued by Mr. Maynard.

Q. What time did you say you went to see Totman?

(Testimony of John B. Reeve.)

A. I think it was a month or six weeks after I filed on my land.

Q. Had you any arrangements up to this time for paying for your land? A. Yes, sir.

Q. Who had you made the arrangements with?

A. Mr. Cobban.

Q. Where was that? A. In Missoula.

Q. When?

A. Well, I disremember the date.

Q. How long was it before you led or after you filed? A. It was after I filed.

Q. How long after you filed?

A. Well, if I could remember the date I filed and the date my wife filed, I could answer that question properly.

Q. Your filing papers are September the 8th, 1899?

A. I believe it was.

Q. No; do you want to know your wife's time?

A. Yes, sir.

Q. Her's was September the 18th.

A. Well, I think it was the day after I came back with my wife from the timber that I made the arrangements with Mr. Cobban for money to pay for our lands.

Q. What do you mean by our land; who do you mean? A. My wife's land and my land.

Q. Just you two? A. Yes, sir.

Q. Didn't you make arrangements for borrowing money from Cobban to pay for your two daughters and their husbands' land?

(Testimony of John B. Reeve.)

A. I engaged a loan from Mr. Cobban for all of us excepting Mr. Starkie.

Q. Excepting Mr. Starkie?

A. Yes, sir; I believe I told Mr. Starkie how he could get his money.

Q. So you engaged the loan for five of you, and told Mr. Starkie how he could get it? A. Yes, sir.

Q. When you said that you made arrangements with Mr. Cobban in regard to a loan for yourself and wife, did you mean to include also the others?

A. I don't remember whether I made the loan, whether I spoke about the others that day or not. I cannot remember whether I spoke for the others that day or not.

Q. What is your best recollection?

A. I can't remember; I don't know that it was that day sometime, whether it was that day or whether it was afterwards, I can't tell for certain.

Q. But you are positive you did not speak to Mr. Cobban in regard to the loans until after your wife had filed? A. Yes, sir.

Q. Who filed with your wife?

A. Well, I disremember whether Mrs. Starkie filed the same

Q. Well, your entire family had filed or had been up the mountains before you went and saw Mr. Cobban?

A. Before I asked him anything about a loan; yes, sir.

Q. How did you expect to pay for your land and your wife's at the time you filed?

(Testimony of John B. Reeve.)

A. We expected to borrow the money, my wife and myself; I expected to get a contract to log timber, and I knew if I did get a contract that I could get money; it was customary.

Q. Where was this land that you and your wife located situated?

A. It was situated on Belmont Creek, on the mountains, or what is called Belmont Mountain.

Q. On what is called Belmont Mountain?

A. Yes, sir; and Creek.

Q. Well, can you describe it more particularly than that?

A. I don't know that I can.

Q. What section was it in?

A. Well, now, I shall have to refresh my memory.

Q. You cannot tell without looking at the paper what the description is?

A. I don't think I can; I never kept any notes of it.

Q. How many times were you up there?

A. I was up there twice.

Q. In your lifetime?

A. Oh, in my lifetime; I have been on Belmont moutain several times previous to that, on the Belmont Creek.

Q. For what purpose?

A. Went up there hunting two or three times.

Q. The twice that you referred to is the once when you went up with you son in law Starkie, and the other is when you went up with your wife and daughters?

(Testimony of John B. Reeve.)

A. Yes, sir.

Q. Do you know how far these claims that you located were from the river?

A. Well, I should judge that mine was three miles or three and a half.

Q. How far was your wife's?

A. Possibly five miles.

Q. Five miles? A. Yes, sir.

Q. Up in the mountains? A. Yes, sir.

Q. You plan was what?

A. My plan was to log that timber to the Blackfoot Milling Company.

Q. And, as you explained yesterday, that was to cut the timber down and haul it to the river bank?

A. Yes, sir; after building roads sufficient to haul on.

Q. What do you mean by that?

A. I simply mean that we would have to build roads to haul logs on.

Q. That is, you would have to build a logging road from the locations down to the river bank?

A. Yes, sir.

Q. And in your wife's case, that would be five miles?

A. In my wife's case it would be about a mile and a half.

Q. A mile and a half?

A. Yes, sir; simply because there had previously been three and a half miles built by another firm that was logging in that district.

Q. How far would it be in your case?

(Testimony of John B. Reeve.)

A. I should judge, to my land, it would probably be three miles and a half to the river; I would probably have to build a mile of road to get all of them out.

Q. That would be quite a difficult job?

A. Well, it would have cost me a little something to have done it.

Q. How much would you say it would have cost to construct these two different roads to get to your wife's land and your land?

Mr. WALSH.—We object to this question for the reason that is irrelevant and immaterial, and does not prove or tend to prove any allegation in the bill of complaint; and for the further reason that it is an attempt by counsel to cross-examine his own witness.

A. Well, I could not say exactly what it would cost; I have had considerable experience in building roads.

Q. I know that, and that is the reason I asked you?

A. I should judge it might possible have cost me one hundred and fifty dollars a mile to build such road as I wanted.

Q. What would you have wanted?

A. Just simply the roads cleared out, and, where it was necessary, graded down; other places would not need any grading other than to clear the brush out of the way.

Q. Would you have cut the trees down?

A. Where there was any in the road.

Q. You would have to take the stumps out?

Mr. WALSH.—We object to this question for the

(Testimony of John B. Reeve.)

reason that it is immaterial and irrelevant, and that it does not prove or tend to prove any of the material allegations in the complaint herein; and for the further reason that it is an attempt upon the part of counsel to cross-examine his own witness.

A. No, sir.

Q. You did not have to take the stumps out?

A. No, sir.

Q. You say you think one hundred dollars a mile?

Mr. WALSH.—We object to that question for the reason that it is immaterial and irrelevant, and that it does not prove or tend to prove any of the material allegations of the complaint herein; and for the further reason that it is an attempt on the part of counsel to cross-examine his own witness.

A. Probably one hundred and fifty dollars a mile.

Q. You had your horses and logging outfit, hadn't you?

Mr. WALSH.—We object to that question for the reason that it is leading.

A. I owned horses, outfits, at that time.

Q. Had a logging outfit?

A. Not a full logging outfit.

Q. What did you have besides horses?

Mr. WALSH.—We object to that question for the reason that it is leading.

A. Harness and wagons.

Q. And you fully expected at the time you entered these claims to carry on that logging operation?

(Testimony of John B. Reeve.)

Mr. WALSH.—We object to that question for the reason that it is leading; and for the further reason that it is simply a repetition of the testimony that has already been given.

Q. And you made the entries for that purpose, did you, Mr. Reeve?

Mr. WALSH.—We object to that question for the reason that it is leading; and for the further reason that it is simply a repetition of the testimony that has already been given.

A. The chances are I should never have made any entries if I had not expected to log it myself.

Q. How many pieces were you going to utilize?

A. All that I could get hold of.

Q. How many would that be, situated as you were at that time?

A. If I could make any proper arrangements to get hold of all of them I intended to do it, but I did not make any talk about it, or any bargain or anything of the kind; I intended to get all of them if I could do it.

Q. That is all of the six.

A. Yes, sir; and get a long enough contract.

Q. And that was with the Blackfoot Milling Company? A. Yes, sir.

Q. Now, what did you do about it?

A. I simply went to Mr. Totman and found that they were not giving any contracts; it was impossible to get a contract at that time.

(Testimony of John B. Reeve.)

Q. How long a time was it, did you say, after you filed?

Mr. WALSH.—We object to that question for the reason that it is a repetition of the testimony of the witness given yesterday.

A. About a month or six weeks.

Q. About a month or six weeks? A. Yes, sir.

Q. Where did you see Mr. Totman??

A. Well, I am trying to remember whether I saw him in the Florence Hotel or where it was. I saw him in Missoula and I approached him on the subject. I think it was in the Florence Hotel; I met him there quite frequently, but whether I did that time or not I disremember.

Q. Did you have a conversation with him?

A. Nothing only just simply ascertained that they were not letting any contracts at that time.

Q. Now, do you say that you are unable to locate the time and place?

A. I don't remember just whether it was in the Florence Hotel or where it was; it was in the city of Missoula I know that, at that time.

Q. Well, did you have any conversation with him other than that that day? A. Yes, sir.

Q. In regard to this matter or not?

A. Referring to logging I did.

Q. I mean in regard to logging on these claims?

A. No, sir.

(Testimony of John B. Reeve.)

Q. The conversation that you found that they were not letting contracts?

A. Not with regard to these timbers, never had any conversation with him in regard to these timbers; we referred to getting a contract to log.

Q. Can you state who was with Mr. Totman?

Mr. WALSH.—We object to that question for the reason that it is irrelevant and immaterial.

A. I cannot; as a rule I never approached a man when there was anybody else with him talking about a matter on any subject.

Q. Can you fix this time with any degree of certainty?

Mr. WALSH.—We object to this question for the reason that it is irrelevant and immaterial.

A. No, only that it was about a month or six weeks after I had filed on the land, that is all.

Q. How do you think it was a month or six weeks?

Mr. WALSH.—We object to that question for the reason that it is irrelevant and immaterial; and for the further reason that it is an attempt upon the part of counsel to cross-examine his own witness.

Q. What makes you think that?

A. Well, really I can't tell you why I say that, I think because I was engaged in other business that I had not time to look after it prior to that.

Q. You say you don't know just where he was when you did see him?

A. I say I am not positive just whether he was in

(Testimony of John B. Reeve.)

the Florence Hotel or where he was in Missoula, whether he was on the sidewalk, possibly it might have been on the sidewalk, but I have often met him as I started in the Florence Hotel.

Q. Then it was a chance meeting, wasn't it?

Mr. WALSH.—We object to that question for the reason that it was leading.

A. No, I can't say it was, I started from home to go and see Mr. Totman.

Q. Where was he?

Mr. WALSH.—We object to that question for the reason that it has already been answered by the witness.

A. I supposed when I left home that he was in Bonner and it was my intention to go to Bonner to see him, but chanced to meet him in Missoula and saved me a trip to Bonner.

Q. What did you say to him?

A. Asked him if they were letting any contracts, any logging contracts.

Q. Just asked him that one question?

A. He answered me that question and said they were not, that they did not intend to let any contract that way whatever; it was not necessary to ask him any more questions.

Q. Who else did you see?

A. There was nobody else logging in that vicinity; I certainly did not see anybody.

Q. So you just simply saw this man as you now have stated and let it go?

(Testimony of John B. Reeve.)

Mr. WALSH.—We object to that question for the reason that it is a repetition of the statement made by the witness and not any evidence in the case, being simply a statement made by counsel.

Q. Is that it, Mr. Reeve, abandoned the idea of logging?

Mr. WALSH.—We object to that question for the reason that it is leading.

A. I certainly did abandon the idea in that locality.

Q. Well, now, Mr. Reeve, the purpose for which you filed on the land, having been abandoned by you, why did you go on further in your taking up of land?

A. Because as I stated before I had made arrangements, negotiated a loan, and intended to prove up on my land and utilize it further if I could, once I got it.

Q. Utilize it further, what do you mean by that?

A. Utilize it further on, use it to my own benefit at some future time.

Q. You did not think it was well when you found out that you could not use it for logging purposes to drop the matter right there and then?

Mr. WALSH.—We object to this question because it is leading, and in addition to that it assumes a fact as testified to by the witness which he has not testified to, namely, that he abandoned the purpose of logging; the witness not yet having testified that he ever abandoned the purpose of logging, but simply having testified that he was not able to get a logging contract for that year.

(Testimony of John B. Reeve.)

A. No, sir, I had no intention of dropping it there; I intended to hold it for future operations.

Q. So you expected to hold it then?

A. Yes, sir.

Q. Well, when are your logging operations carried on, Mr. Reeve?

A. They generally commence in the fall of the year and extend until spring.

Q. Why do they commence in the fall and extend to spring?

A. It is generally customary to cut the timber and skid it—take it up in the skidways along the road, then when we get snow be ready to haul it.

Q. How long before this time had you made the arrangements with Mr. Cobban to get the money that you had this conversation with Mr. Totman?

A. I think it was about the day after, the 19th, probably the 19th day of the month that we filed on our land, about that time.

Q. That is the next day after your wife filed, with the rest of the party?

Mr. WALSH.—We object to all this for the reason that it has already been testified to by the witness.

A. I thing it was, yes, sir.

Q. Now, what arrangements did you make with Mr. Cobban?

A. I made arrangements to borrow the money with Mr. Cobben and give him security for the money.

Q. Was that the first talk that you had ever had

(Testimony of John B. Reeve.)

with him on this subject about getting the money, the day after your wife and the rest of the party filed?

A. I can't say that it was?

Q. Can you say that it was not?

A. Yes, sir, I can.

Q. Then you mean to say that it was not the first time you had talked with him?

A. It was not the first time I had talked with him in regard to loaning money.

Q. I mean in this land deal?

A. It was the first time I ever negotiated, made any particular bargain with Mr. Cobban with regard to money in the land deal.

Q. In this land deal? A. Yes, sir.

Q. Have you had any talk with him before?

A. I knew I could borrow money before that if I s[illegible].

Q. How did you know that?

A. By talking with Mr. Cobban.

Q. When did you have that talk?

A. Well, I disremember the day I had that talk; can't remember exactly the day I had that talk; never kept any account of it.

Q. Can you tell whether it was a month or six weeks, or two months or three months, or a week—can you tell anything about it?

A. Well, it was between one week and a month, undoubtedly.

Q. Between what?

A. I should say one day and a month, possibly between one day and a month.

(Testimony of John B. Reeve.)

Q. That you had this conversation with him?

A. That I negotiated the loan.

Q. That you had that talk with him?

A. That I had the talk with him about borrowing money.

Q. What was that talk?

A. I asked him if he was loaning money.

Q. Go on and state just what you said to him and what he said to you.

A. I told him if he was undoubtedly I would like to borrow some money of him; he said he was in the habit of loaning money on good security.

Q. Well, go on.

A. I told him that I thought I could give him good security. I remember telling him that I thought I could give him a bank note if necessary, but when I came to borrow the money of him I found it was not necessary.

Q. When you came to borrow the money from him you found it was not necessary?

A. Found it was not necessary to give any bank note.

Q. What was it necessary to do?

A. Give him security.

Q. What kind of security?

A. Well, I agreed to give him security on everything I had in the world; after I got title to my land I agreed to give him security on that, then give him security on my personal property.

Q. Well, did you? A. I did not.

Q. Why didn't you?

(Testimony of John B. Reeve.)

A. Simply because when I proved up on my land, made final proof on my land, I went to Mr. Cobban for the purpose of giving security and he made me an offer for my land and I considered his offer and accepted it.

Q. Well, who paid the money into the land office for your land?

A. Well, sir, I could have paid it in myself if I desired, but I requested it to be deposited in the land office for me.

Q. By whom? A. By Mr. Cobban.

Q. Why did you do that?

A. I did not care to carry any money around in my pocket, that amount at least.

Q. Did you request that for anybody else besides yourself? A. I did not, only my wife.

Q. Only your wife? A. Yes, sir.

Q. So Cobban handed the money into the land office in payment of the land, for your land and your wife's?

Mr. WALSH.—We object to that for the reason that it is leading and for the further reason that it is repetition of the testimony already given by the witness.

A. I did not see him do it, but I presume he did, simply because it was paid, either he or somebody else, some of his employees.

Q. Well, what did you get?

A. What did I get?

Q. Yes, Cobban paid the money into the land office. Now, what did you get, anything?

(Testimony of John B. Reeve.)

A. Well, I certainly did; I got what he agreed to give me, what I sold to him for.

Q. How much was that?

A. I got two hundred and ten dollars.

Q. For what did you get the two hundred and ten dollars?

A. One hundred dollars of the money was to pay for what I had agreed to give Mr. Griswold; the other hundred and ten dollars was my own money after I sold; four hundred dollars went to pay the Government for the land and the ten dollars for advertising purposes.

Q. Well, I ask you how much you received yourself, how much was paid to you by Cobban at the time you sold your wife's land and your own.

A. One hundred and ten dollars.

Q. That is what you got?

A. That is what I realized out of my land.

Q. Is that what you received?

A. That is the money I received out of my land.

Q. A hundred and ten dollars? A. Yes, sir.

Q. How much did your wife receive?

A. Well, now, I have forgotten exactly what she did receive. Her land estimated a little more than mine and if I remember rightly the purchase price was a little better than mine, but not a great deal; my wife did not receive the money at all until I gave it to her.

Q. That is what I say, you got the money from Cobban? A. I did, yes, sir.

Q. Now, I ask you how much you received from Cob-

(Testimony of John B. Reeve.)

ban in behalf of your wife, for your wife, I remember what she got out of it?

A. Yes, I remember distinctly what she got out of it myself.

Q. What was it?

A. I gave her money to buy a cow with.

Q. How much was it that you received for your wife from Cobban?

A. Well, I should say –I can't remember exactly, but I should say it was between a hundred and a hundred and twenty-five dollars, somewheres between a hundred and a hundred and twenty-five dollars, after paying back what we had agreed to pay.

Q. What did you agree to pay?

A. We agreed to pay for the Government land, pay back the amount we got of him and a hundred dollars apiece to Mr. Griswold for locating us and procuring the land for us.

Q. Had you had dealings—you did not pay this money to Mr. Griswold, did you?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. I authorized Mr. Cobban to settle with Mr. Griswold.

Q. I mean, unless he got it from Cobban?

A. I don't know whether Mr. Cobban ever paid him or not. I never saw him pay him. I presume he did, though, pay him all that he agreed, if he agreed to pay him.

(Testimony of John B. Reeve.)

Q. How did Mr. Cobban pay this money to you, in currency or in a check?

A. I would not be positive whether he gave me a check or whether he gave me the money.

Q. You say your wife got between a hundred and a hundred and twenty-five dollars and you got a hundred and ten?

Mr. WALSH.—We object to the repetition by counsel of the testimony of the witness heretofore given.

A. I say my wife got between a hundred and a hundred and twenty-five dollars.

Q. And you got how much?

A. I received one hundred and ten dollars; that is profit.

Q. And requested then Mr. Cobban to pay this money to the land office for you because you did not want to carry it around?

Mr. WALSH.—We object to this question for the reason that it is leading; we further object to the repetition by counsel of the testimony of the witness heretofore given.

Q. That is it, is it?

Mr. WALSH.—We object to this question for the reason it is leading; and we further object to repetition by counsel of the testimony of the witness heretofore given.

A. I certainly did request Mr. Cobban to pay the money into the land office for me.

(Testimony of John B. Reeve.)

Q. Well, if you did not give Mr. Cobban a note or a mortgage what security did he have?

A. Well, sir, Mr. Cobban knew me well enough to know that what I promised to do with him he would certainly get if my breath held out; that was his security up until I proved up, then I was to give him security.

Q. Your word?

A. My word was his security until I proved up.

Q. That would be for over eight hundred dollars, would it not, Mr. Reeve?

Mr. WALSH.—We object to this question for the reason that it is leading; and for the further reason that it is a conclusion of counsel and not the testimony of the witness.

A. Yes, sir, it would be over eight hundred dollars.

Q. Now, you spoke of having negotiated a loan with Mr. Cobban, for your two daughters and one son in law at least. Did you negotiate for the loan for them for the purchase of their land on the same basis?

Mr. WALSH.—We object to that question for the reason that it is leading.

A. I ascertained that he would loan money to them on the same basis.

Q. That he would loan it to them on the same basis?

A. Yes, sir.

Q. Take their word for the money?

(Testimony of John B. Reeve.)

Mr. WALSH.—We object to that question for the reason that it is leading.

A. I never asked him to take their word for it.

Q. What do you mean then when you say that you ascertained that he would loan the money on the same basis as your own land, and your basis was your word, what do you mean by that?

A. Why, I suppose that Mr. Cobban felt perfectly secure to take my word because he only had to wait a very short time after I proved up until he would get his security, he could deposit the money the same day that I proved up, he did not have to advance it, did not have to wait any time to get his security after we proved up.

Q. What was his security to be then, after you proved up?

Mr. WALSH.—We object to the repetiton by counsel of questions that have already been asked and answered by the witness.

A. As I said before I had agreed to give Mr. Cobban security on my land after I got a deed for it, and if he wished it my personal property.

Q. And so you made arrangements with him then the same day after you proved up?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. I did not say I made the arrangements the same day after I proved up.

Q. Well, did you sell to him the same day?

(Testimony of John B. Reeve.)

Mr. WALSH.—We object to this question for the reason that it is leading.

A. I certainly did sell to him the same day.

Q. Sold to him the same day?

Mr. WALSH.—We object to the repetition by counsel of the testimony of the witness and we further object to this question for the reason it is leading.

A. Yes, sir.

Q. How long a time elapsed after you made your final proof before you did sell to Mr. Cobban?

A. Well, sir, I made it a practice when I promised a man anything at all I would fulfill that promise immediately, and immediately I went to Mr. Cobban's office and after proving up and getting my final receipt and offered him the security I had promised; he made me an offer for the land, as I stated before, and I considered his offer and accepted it.

Q. You received the money from him as you have testified?

Mr. WALSH.—We object to the repetition of the testimony of the witness by counsel and we further object to this question for the reason it is leading.

A. Certainly I received it just as I testified.

Q. Who went with you?

Mr. WALSH.—We object to that question for the reason that it is irrelevant and immaterial.

A. My wife went with me.

(Testimony of John B. Reeve.)

Q. Did the other members of your family go, daughters?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. I don't remember whether they went at that hour or not, but I think they went the same day that I did.

Q. How long were you in Mr. Cobban's office after you proved up at the time you sold?

Mr. WALSH.—We object to this question for the reason it is immaterial and irrelevant; and for the further reason that it is leading.

A. I could not state exactly how long I was in there, long enough to make out the deeds and have us two sign it and have them acknowledged and receive my money and go home.

Q. So then the first time that you had ever thought of selling to Mr. Cobban this land for yourself and wife was during this time you were up in his office after you proved up?

Mr. WALSH.—We object to that question for the reason that it is leading; and for the further reason that it assumes a fact as proven which the witness has not testified to.

A. It was the first time I had ever had any talk with Mr. Cobban about selling him the land.

Q. He never said anything to you about it before?

Mr. WALSH.—We object to this question for the reason that it is leading.

(Testimony of John B. Reeve.)

A. No, sir.

Q. And you had not said anything to him?

Mr. WALSH.—We object to that question ofr the reason it is leading.

A. I stated that I never had any talk with him about it before.

Q. Is that same thing true relative to any conversations that you had with Mr. Catlin?

Mr. WALSH.—We object to this question for the reason it is leading.

A. Yes, sir.

Q. And Mr. Pound?

Mr. WALSH.—We object to this question for the reason it is leading.

A. Yes, sir.

Q. Mr. Griswold?

Mr. WALSH.—We object to this question for the reason it is leading.

A. Yes, sir.

Q. Mr. Jemison, Albert Jemison?

Mr. WALSH.—We object to that question for the reason it is leading.

A. Yes, sir.

Q. You had no arrangements, nor agreement, nor understanding in anyway, express or implied, with Cobban or any of these men that I have mentioned, that you were to deed this land after you proved up?

(Testimony of John B. Reeve.)

Mr. WALSH.—We object to this question for the reason that it is leading.

A. I have sworn to that in this statement here.

Q. I know you have; that statement was true, was it?

A. That statement was true, yes, sir.

Q. You swear again, now, to this question that I ask you irrespective of your question and answer there, if I put the same question now, just the same as if that question had not been put to you before and answered?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. I answer just the same as I did in there; it is true.

Q. Now, I ask you the question: "Had you at that time (just before you went up to Cobban's office on that day that you proved up) directly or indirectly, made any agreement or contract in any way or manner with any person whomsoever by which the title which you were about to acquire from the government of the United States should inure in whole or in part to the benefit of Mr. Cobban?"

A. I answer I had not.

Q. Or any other person except yourself?

A. Or any other person.

Q. And you made the entry in good faith for the appropriation of the land exclusively to your own use and not for use or benefit of Mr. Cobban or any other person? A. I certainly did.

(Testimony of John B. Reeve.)

Q. Did you feel perfectly free under the circumstances you have now testified to, Mr. Reeve, to sell this land that you had made final proof on that day with Mr. Cobban's money, to sell that land to anybody else?

A. I did not consider it Mr. Cobban's money after I had borrowed it.

Mr. WALSH.—With that qualification, Mr. Reeve, you had better go on and answer the question,

A. I felt that as though I could sell anything I owned, belonged to me, I was at liberty to do what I pleased with anything that belonged to me, having paid for it.

Q. Did you receive any paper from the land office that day?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. I did not.

Q. Now, you found yourself in the possession of one hundred and sixty acres of land and your wife was the owner of one hundred and sixty acres of land which had been paid for by Cobban's money, and all that Cobban had to show for it was your word?

Mr. BICKFORD.—We obect to this as leading and for the further reason there has not been any question put to the witness.

Q. Now, then, with that situation which you have testified to, Mr. Reeve, what security did Mr. Cobban have for his money?

(Testimony of John B. Reeve.)

Mr. WALSH.—We object to this question for the reason that it has already been asked and answered by the witness, and for the further reason that it assumes a number of facts which do not appear in evidence.

A. I presume Mr. Cobban thought he had plenty of security, he had my word that I would give him security on the day that I proved up and got my final papers.

Q. So that if you had gone right off and sold it to someone else he would have been out that money?

Mr. WALSH.—We object to that question for the reason that it is leading; and for the further reason that it is irrelevant and immaterial and for the further reason that it is argumentative.

A. I don't think he would.

Q. Why?

A. Because I consider my word good. I should have paid him back the money that I have borrowed of him with the hundred dollars that I had agreed to pay, if that was sold to President McKinley.

Q. Did you regard that at the time as a usual business transaction on the part of Mr. Cobban?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. I considered at the time I had a right to do what I pleased with my land, so I paid him back the money I had agreed to pay him.

Q. Did you regard that as a good business transaction on the part of as good a business man as Mr. Cob-

(Testimony of John B. Reeve.)

ban was and is, to loan you and your wife over eight hundred dollars without any security of any kind, note or mortgage, simply relying upon your word?

Mr. WALSH.—We object to that question for the reason that it is irrelevant and immaterial.

A. Why, I certainly did regard it as a business transaction and of good business proposition, too.

Q. You did? A. Yes, sir.

Q. Now, explain to the Court why, if that was a good business proposition and you so regarded it, that Mr. Cobban, when you were so poor that you had to borrow money in order to get food for your family—or grub, as you called it—would exact a chattel mortgage from you for the loan of a little over one hundred dollars, when he knew that you wanted the money very badly to buy food for your family?

Mr. WALSH.—We object to this question as irrelevant, immaterial and incompetent; as relating to a circumstance and a transaction long after the borrowing of the money and long after the conveyance of the land to Cobban, and long after the conveyance of the land to the defendant Clark; and because it assumes a condition of facts which has not been proven to exist.

A. I state now that I never stated that Mr. Cobban ever exacted a chattel mortgage from me for the hundred and twenty-six dollars which I borrowed of him, it was voluntary on my part to give him that money.

Q. Now, state, Mr. Reeve, why it was that there was

(Testimony of John B. Reeve.)

no agreement or understanding—I do not mean any written understanding or written agreement, but an implied agreement, an implied understanding so that you knew what was expected of you, so that you knew what Mr. Cobban expected you would do and you knew he expected and you actually received the money, the money was paid in just as you have testified, with all that before you, when you went back into Mr. Cobban's office why did you sell to him?

Mr. WALSH.—We object to this question as assuming a large number of facts as proven which have not been proven, nor which have not been testified to, and as assuming a state of affairs which the counsel simply deduces from the testimony of the witness, and because the question has already been answered, the witness having stated two or three times in detail just why it was that he sold to Mr. Cobban.

A. I believe I have answered that question in proper shape two or three times.

Mr. MAYNARD.—I will withdraw the question.

Q. Now, I ask you this question, if there was no agreement existing between you and Mr. Cobban prior to your going into the land office on the day of your proving up and before that same day, either express or implied, that you were made to convey to him on leaving the land office, why did you immediately sell without some inquiries, or taking some steps to find out whether you could better yourself or get a better price?

(Testimony of John B. Reeve.)

Mr. WALSH.—We object to this question, in the first place, because it is leading; in the next place, because it assumes a state of affairs which have not been proven; and third, because it contains deductions of counsel not properly deducible from the testimony already given; and because it is irrelevant and immaterial.

A. It is very easy for me to answer that question.

Q. Well?

A. I had estimated the timber and the offer he made me was equivalent to about one dollar a thousand stumpage and I knew if I held it for a year or two longer I could get no more than that for it.

Q. That is your answer? A. Yes, sir.

Q. Were there other people in or about Missoula that were buying timber?

A. I had heard of other people that were buying timber, but not in that vicinity.

Q. Where were they?

A. Up the Bitterroot valley.

Q. Can you give me any of their names?

A. Well, I don't know that I can remember. I think that Mr. William Kendall was buying timber and I believe that McKeen & Erickson bought timber.

Q. Where were they?

A. They were up the Bitterroot, had sawmills on the Bitterroot.

Q. Was there any sawmills in Missoula or near there? A. Sawmill at Bonner.

(Testimony of John B. Reeve.)

Q. And you made no effort to sell to any of these parties?

A. I made no effort to sell to anybody. I knew that Mr. Kendall could not buy my timber, he could not utilize it is he had no sawmill on that stream.

Q. There was a mill right at Bonner?

A. He had nothing to do with that.

Q. The Bonner people could have utilized it, could they not? A. They could have if they saw fit to.

Q. You made no effort to sell to them?

A. No, sir; as I stated before I made an effort to log it for them, expected to log it for them.

Q. How much was the timber worth on your land?

A. It was worth about a dollar a thousand on the stump.

Q. How many thousand were there?

A. A trifle over six hundred thousand.

Q. That would be about six hundred dollars then?

A. I think the timber cost Mr. Cobban six hundred and twenty dollars.

Q. You had spent a good deal of time in estimating that timber hadn't you? A. Not a great deal.

Q. Didn't it take some little time to estimate the value of one hundred and sixty acres of timber?

A. It may take some men quite a little time, but it did not take me long.

Q. Well, how long a time did it take you?

A. Well, I think I estimated the timber on that quarter section in one day.

(Testimony of John B. Reeve.)

Q. Did that include your wife's? A. No, sir.

Q. Then did you estimate hers?

A. About a week afterwards.

Q. Do you remember who your witnesses were?

A. I never took the names of my witnesses down to remember them and I have forgotten them; I think that Abert Jemison was one of my witnesses.

Q. He is the one that took you to your claim, isn't he? A. He is the one that met me up there.

Q. Do you know anything about your claim at all; except as Albert Jemison took you to it?

A. I don't know just where it was located.

Q. Did you know anything about it?

A. I knew about the timber country up there.

Q. You knew there was timber on the mountains up in that country? A. Yes, sir.

Q. Did you have anything to do with the publication of the notice or the payment of it?

Mr. WALSH.—We object to that question for the reason that it is irrelevant and immaterial.

A. I certainly paid for it as I stated before.

Q. Did you have anything to do with the publishing of it?

Mr. WALSH.—We object to that question for the reason that it is irrelevant and immaterial.

A. I think not; I think it was taken from the land office, the publication was.

Q. You say you paid for it?

(Testimony of John B. Reeve.)

A. It came out of my money?

Q. The time that Cobban gave you the money?

Mr. WALSH.—We object to this question for the reason that it is leading; for the further reason that it is irrelevant and immaterial; and further, we object to all of this testimony with reference to the publication of notice and the payment for publication of notice for the steps with reference to the publication of notices, the preparation of notices and the publication thereof, is taken charge of and is done by the officers of the land office, under the rules of the land office requiring them to do so.

A. These expenses was all deducted from the purchase price of my land.

Q. So you had nothing whatever to do then with the publication of the notice or the payment of it except that it was deducted at the time you sold?

Mr. WALSH.—We object to this question for the reason that it is leading, and for the further reason that it is a repetition of the testimony of the witness by counsel.

Q. Is that it, Mr. Reeve?

A. I think at the time I sold and received the purchase price of my land why this ten dollars was deducted.

Q. Don't you know, Mr. Reeve, that what you in fact did get, immediately after you proved up from Cobban,

(Testimony of John B. Reeve.)

was the exact sum that you had agreed to receive from Cobban after you had proved up, long before this?

Mr. WALSH.—We object to this question for the reason that it is leading; and for the further reason that it assumes a state of facts directly contrary to what the witness has testified to.

A. I said that I never knew what I was to receive for it until I made a bargain with Mr. Cobban after proving up; never knew that I was to receive anything from Mr. Cobban for it.

Q. You didn't hear from any of your relatives or associates or friends or acquaintances that that was what Mr. Cobban was paying?

Mr. WALSH.—We object to this question for the reason that it is immaterial; for the further reason that it is leading; and for the further reason that it calls for hearsay evidence.

A. I never had seen a party that had ever sold a piece of land to Mr. Cobban up to that time.

Q. Hadn't you heard from any source that Cobban was buying land under these stone and timber entries?

Mr. WALSH.—We object to this question for the reason that it is immaterial; for the further reason that it is leading; and for the further reason that it calls for hearsay evidence.

A. No, I don't think that I had heard that he was buying under the stone and timber entry; I heard that

(Testimony of John B. Reeve.)

he had bought the timber off of one or two homesteads and paid stumpage for it.

Q. Well, now, Mr. Reeve, is not this a fact, that prior to meeting Mr. Griswold at Florence Hotel, Missoula, that you testified to yesterday, when you asked him to locate you on a claim and when he sent you up to see Albert Jemison. who was working for him, that at that time and place you knew of what Mr. Griswold was doing; that he was locating people on claims for Mr. Cobban and that they were to make final proofs, and that immediately thereafter they were to go to Mr. Cobban's office and transfer that same land they had proved up on to Mr. Cobban and receive thereafter one hundred dollars and your expenses, just as you received it, didn't you understand it at that time?

Mr. WALSH.—We object to this question for the reason that it is leading; for the further reason that it is irrelevant and immaterial, and is not calling for any fact in regard to the matters in controversy in this action and as calling for a conclusion of the witness, and as asking for matters that would be hearsay.

A. I did not understand any such thing.

Q. Never had heard that from anybody?

A. No, sir.

Q. Now just state again how it was that you happened to go to him and ask him to locate you?

A. I had asked him previously to hunt me up a homestead, as he had promised to do previously, years before, and went to him to have him hunt me up a homestead and let me know whether he could or not.

(Testimony of John B. Reeve.)

Mr. WALSH.—We object to this because it is a repetition of that which has already been testified to; the whole matter has been testified to by the witness.

Q. Do you know a woman in Missoula by the name of Mrs. Lawrence. A. I don't.

Q. Don't know her? A. No, sir.

Q. This woman lives two doors from the foundary west of the Bitterroot track in Missoula; you say you don't know that woman? A. No, sir.

Q. Never heard of such a woman?

A. Don't know that I ever did.

Q. Will you swear that you did not?

A. I will not, might have heard of her a hundred times, but don't know anything about her, don't remember anything about her.

Q. Now, I will ask you if in the city of Missoula on the corner of Higgins avenue and Main street, between the time after you had filed and before your final proof, you did not meet Mr. Griswold there and say to him substantially as follows: "Now, I know a woman by the name of Mrs. Lawrence (indicating her and pointing so that he knew just who you referred to), and I want you to find a location for her just as you got locations for my family, myself and wife and daughters and sons in law, and I want her to have a chance to make a hundred dollars and expenses also," and didn't he at that time and place tell you substantially that he would not locate a woman of that character on any piece of land for Mr. Cobban. Didn't that conversation take place?

(Testimony of John B. Reeve.)

A. Never was such a conversation took place in the world with me and Mr. Griswold, never.

Q. Well, now, what have you to say as to whether or not you have any personal knowledge of the existence of such a woman?

A. I have not any knowledge of any such woman.

Q. You don't know who I refer to?

A. No, sir, I do not.

Q. And you never heard that there was such a woman as Mrs. Lawrence living in Missoula?

A. Don't know that I ever did; as I said before, I might have heard of her, but I don't remember of ever hearing anything of such a person.

Q. Now, Mr. Reeve, immediately after the time that you hunted up Mr. Griswold at the Florence Hotel, and asked him to locate you, and he sent you up to his man that was working for him, Albert Jemison, who did locate you in fact; do you remember while you were on your way up there of Mr. Griswold meeting you on the way?

Mr. WALSH.—We object to the recital in the question of a precedent fact, the simple question to which the witness' attention is directed is as to whether on the way up to Blackfoot for the purpose of selecting his claim he did not meet Mr. Griswold?

A. I remember on one of my trips up the Blackfoot Mr. Griswold overtook me at Mr. Stairs' place while I was watering my horses, and during the time we traded horses, Mr. Griswold and I traded horses that day, or exchanged

(Testimony of John B. Reeve.)

horses that day, and afterwards traded in Missoula, with the understanding if I liked my horse and if he liked his, if we were satisfied with the exchange we were to keep the horses we had.

Q. At that time and place after Mr. Griswold, the day before when Mr. Griswold had had a conversation and the day when you met him, being the next day thereafter, as you now have stated it, didn't you tell him then and there in the presence of Mrs. Stairs, and in her hearing, that you had made arrangements with Mr. Cobban to take up six pieces of land, naming them, one for yourself and one for your wife, and one each for your two daughters and your sons in law, and that you were to receive each for the six one hundred dollars apiece and expenses?

Mr. WALSH.—We object to this question for the reason that it is immaterial, irrelevant and incompetent, and for the further reason that it is hearsay.

A. I did not, sir.

Q. Had no conversation with him on the subject?

A. Not on the land subject whatever.

Q. In that conversation which Mr. Griswold had with you at the time, didn't he say to you, when you admit that you had a conversation with him relative to his locating you, that he was not willing to make any business arrangements with you, but that you would have to see Mr. Cobban yourself?

Mr. WALSH.—We object to this question for the reason that it is leading.

(Testimony of John B. Reeve.)

Q. And that, as a matter of fact, after he had told you you must see Mr. Cobban yourself that you did so, and made this arrangement with him, and then communicated the fact at Stairs?

A. No, sir, that is not true, when I saw Mr. Griswold about a homestead he proposed putting me on a timber and stone claim for one hundred dollars and expenses.

Q. He proposed to put you on a stone and timber claim for one hundred dollars?

Mr. WALSH.—We object to this repetition, being a mere statement by the counsel as to what the witness has testified to.

A. Yes, sir.

Q. Now, as a matter of fact, he did send you to his agent, to the man who was working for him, Mr. Jemison?

Mr. WALSH.—We object to this question for the reason that this matter has been gone into over and over again; the witness has testified as to what Mr. Griswold did and what direction he gave to witness; and further, because it assumes a state of facts which has not been testified to by the witness or proved in any way that Jemison was an agent of Mr. Griswold.

Q. And as a matter of fact he, Griswold, through his agent Jemison, did locate you and your wife and your two daughters and your two sons in law, and now I ask you if he ever asked you for, or ever did receive from you, one single cent?

Mr. WALSH.—We object to the recital of the facts

(Testimony of John B. Reeve.)

with which the question opened, or anything more than the question as to whether the man was or was not paid.

Q. Except as you have already testified to in the manner of your paying Cobban?

Mr. WALSH.—We object to this upon the further ground that it has all been answered, and is a mere repetition.

A. In the first place, he did not locate anybody but Mr. Starkie and I at that time—Mr. Jemison did not, and as I stated before, I was to pay him one hundred dollars for negotiating a loan for me and necessary expenses of obtaining title to the land.

Q. That you desire as the answer to my question?

A. I desire to be understood that I have stated that I was to pay one hundred dollars for the location of that land and a loan, the use of a loan, and the estimate of the timber.

Q. How much did you agree to pay Jemison?

A. Never agreed to pay him anything.

Q. How was Jemison to receive his pay?

A. Don't know anything about it.

Q. Where did you see Jemison?

A. Mr. Griswold sent me to him.

Q. Where did you see him?

A. I could not positively say where I saw him.

Q. How, after this meeting at Stairs with Griswold?

A. Oh, I saw him before that.

Q. Saw him before that? A. Yes, sir.

Q. Where?

(Testimony of John B. Reeve.)

A. I think I saw him in Missoula; Mr. Griswold notified him to meet us at the mouth of Belmont Creek or at Nine Mile Prairie.

Q. What was he to meet you for?

A. For the purpose of showing us certain sections of land so that we could select our claims from them.

Q. Now, then, after you had made arrangements for this loan from Mr. Cobban, what were you going to pay Griswold for getting the loan for you?

A. I hadn't made this agreement with Mr. Cobban at that time.

Q. Who was Mr. Griswold to get his money from?

A. I don't know.

Q. He told you that he would get the loan for you?

A. I suppose Mr. Griswold at that time was worth three or four thousand dollars.

Q. Do you know Mr. M. R. Stairs?

A. I am slightly acquainted with him.

Q. You are slightly acquainted with him?

A. Yes, sir.

Q. Did you ever have any business dealings with him?

A. I don't think I ever had any to amount to anything. I believe at one time when I went up into the logging woods I stopped and stayed over night with him.

Q. That is all you can recollect, is it?

A. Don't remember of having any business with him; never made any trade with him or sold him anything; and don't know that I ever had anything to do with him, any further than that.

(Testimony of John B. Reeve.)

Q. Were you not logging near his place all winter?

A. I had a contract right back of his place one winter.

Q. And didn't you land your logs in sight of Mr. Stair's place? A. Yes, sir.

Q. Now, during that winter Mr. Stairs was keeping a hotel there, wasn't he?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. Keeping a stopping place.

Q. Keeping a stopping place?

Mr. WALSH.—We object to that question for the reason that it is irrelevant and immaterial.

A. Yes, sir.

Q. Well, now, then, I will ask you during that winter when you were putting in your logs, as you testified to, in sight of Mr. Stairs' place, if you did not borrow money from him?

Mr. WALSH.—We object to this because it assumes a fact which has not been testified to by the witness, to wit; that he was landing logs in sight of Mr. Stairs' place, and also because the question is altogether immaterial.

A. I don't know but I did borrow a little money of him once; I think I did.

Q. How much? A. I think it was five dollars.

Q. Is that the only recollection that you have of borrowing money of him? A. It is.

Q. Did you pay that back?

(Testimony of John B. Reeve.)

Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial.

A. I certainly paid him.

Q. Did you have any occasion to get hay or grain for your horses from Mr. Stairs that winter?

Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial.

A. Not myself, personally; don't know but what the men that drove the supply team went to Mr. Stairs with an order from Mr. Hammond for grain, but not hay; I don't know but what he did once, but that had nothing to do wth me; the order was from Mr. Hammond.

Q. As a matter of fact, didn't you during that winter's dealings up there become indebted to Mr. Stairs for twenty-five dollars or thereabouts, more or less?

Mr. WALSH.—We object to that as irrelevant and immaterial.

A. No, sir, I did not.

Q. For money loaned you by Mr. Stairs and supplies furnished you by him?

Mr. WALSH.—We object to that question for the reason that it is irrelevant and immaterial.

A. I don't think I did.

Q. Do you remember of meeting Mr. Stairs at his place at a saloon known as The Headquarters, in the city of Missoula, in the fall of 1898, and having a conversation with him with reference to the payment of the money that you had borrowed from him?

(Testimony of John B. Reeve.)

Mr. WALSH.—We object to this question for the reason that it is irrelevant and mmaterial..

A. I positively declare that there never was any such conversation with Mr. Stairs.

Q. 1899, I mean?

A. I positively declare that Mr. Stairs never asked me to pay any money that I ever received from him, ever owed him in his life.

Q. When I said 1898 I meant 1899. Now, then, didn't you at that time and place tell him that you would be in a position soon to repay him for the money that you owed him? A. I did not; never told him so.

Q. That you had made an arrangement with Mr. Cobban by which you and your wife and your two daughters and your two sons in law were going to make entries, and that you were managing them, negotiating the loan, and were doing the business, and that they were all of them to make entries for Mr. Cobban, and that you were to sell to him after they had proved up, and that you expected to get about six hundred dollars out of it, and that when you got the money you would pay him. Didn't you have that conversation, or substantially that, with Mr. Stairs at the time and place I have now called your attention to?

Mr. WALSH.—We object to that question as immaterial, irrelevant, incompetent and hearsay, and as relating to a transaction and a definite time not being fixed, so that it is impossible to determine whether it is before or after the conveyance alleged to have been made fraudulently;

(Testimony of John B. Reeve.)

and as an evident effort on the part of counsel to impeach his own witness.

A. I stated positively that I never had any such conversation with Mr. Stairs in my life.

Q. Nor any conversation with him on the subject?

Mr. WALSH.—We object to this question for the reason that it is immaterial and irrelevant, incompetent, and as hearsay, and as relating to a transaction for which no definite time has been fixed, so that it is impossible to determine whether it was before or after the conveyance alleged to have been made fraudulently; and as an evident effort on the part of counsel to impeach his own witness.

A. No such conversation had on the subject at all.

Mr. MAYNARD.—There are a few more questions I desire to ask this witness when I consult—

Mr. BICKFORD.—With Mr. Griswold?

Mr. MAYNARD.—Yes, sir.

Thereupon further hearing was continued until 2 P. M. Tuesday afternoon, two o'clock, March 25th, 1902.

JOHN B. REEVE, a witness called by the complainant, and heretofore upon the stand, resumed the stand for further examination.

Cross-examination.

(By Mr. BICKFORD.)

Q. You stated in your examination in chief, Mr. Reeve, that you had known Mr. Cobban ever since he

(Testimony of John B. Reeve.)

was a child. How long did you know him when he was living in Wisconsin?

A. Well, I know him—I knew the family from the time I first went to that part of Wisconsin until Mr. Cobban left Wisconsin.

Q. When was that?

A. Well, I don't remember just when it was.

Q. When did you live there?

A. Well, I don't remember just when it was?

Q. When did you leave there?

A. I left there in 1890.

Q. And had you lived in Wisconsin from the time you first lived there until you left in 1890?

A. I think I did; yes, sir.

Q. When did you first move there?

A. Oh, excuse me. I first went to Chippewa Falls and lived there when I was a boy, before I had any family, before the war in 1859. Then at that time I got acquainted with the Cobban family. Then I went away from there.

Q. Where did you go?

A. I went back into Minnesota from there. I went to work until the war broke out, and then I went into a Minnesota regiment in the army, and after the war I went back to Chippewa Falls, Wisconsin.

Q. Then at that time—how long were you in the service?

A. I was in the service four years.

Q. And did you know Cobban? Did you know the

(Testimony of John B. Reeve.)

Cobban family again when you returned to Chippewa Falls? A. Yes, sir.

Q. Then you knew Mr. R. M. Cobban at that time?

A. Yes, sir.

Q. You say you knew him in Wisconsin?

A. Yes, sir; I knew him as a small boy.

Q. You say you knew him as a small boy; and then you next knew him in 1890, when you came to Montana?

A. In 1890, or thereabouts. I met him in Montana. That was my first acquaintance in Montana.

Q. Where did you first meet him in Montana?

A. I believe I first met him in Montana in Missoula.

Q. What year was that?

A. Really, I don't remember just what year it was. I was over in that country about seven or eight years after I left Helena, here.

Q. You said, I believe, that you had a logging contract on the Blackfoot River during your residence in Missoula County? A. Yes, sir.

Q. How often? A. Two winters.

Q. Two winters; and you were in the logging business, contracting for putting logs into the river?

A. One year I was employed at that business.

Q. Had you ever been in that business before?

A. Yes, sir.

Q. Whereabouts had you been in that business before?

A. On the Bitterroot River, at Darby.

Q. Had you ever been in that business before?

Q. Yes, sir.

(Testimony of John B. Reeve.)

Q. Where? A. In Wisconsin.

Q. Had you ever been in that business in Minnesota during your residence there? A. No, sir.

Q. Then your experience as a logger was confined to Wisconsin and Montana, with the exception of this winter. What do you mean by that?

A. Why, I mean that I didn't do any logging except in Wisconsin and Montana, and this winter in Idaho.

Q. That is what you mean by the exception of this winter?

A. Yes, sir; I was logging this winter in Idaho.

Q. This last winter? A. Yes, sir.

Q. You have been acquainted somewhat with the business of logging during your life, have you not?

A. Yes, sir.

Q. Had you been familiar with the way of finding land and locating them during your experience?

A. Yes, sir.

Q. When did you first become acquainted with the timber and stone land laws of the United States?

A. I knew nothing about the timber and stone laws of the United States until I applied to Mr. Griswold to find me a homestead in front of the Florence Hotel, and he recommended the timber and stone claim to me.

Q. That is the first knowledge you had, then, of any allowance by the United States laws of an entry under the Timber and Stone Acts?

A. I never had heard anything about it then.

Q. Then you only learned about your rights under the Timer and Stone Act at that time?

(Testimony of John B. Reeve.)

A. I learned that I could take up a timber claim without living on it.

Q. From what source did you learn that?

A. From Mr. Griswold.

Q. Was it in conversation with Mr. Griswold that he told you this?

A. Yes, sir; after I had asked him if he could put me on to a homestead.

Q. Then what did he do with reference to the timber and stone claim as to the manner of taking them up, and the manner of proving up on them?

A. He told me what I would have to do.

Q. Did he tell you you would have to be a citizen of the United States? A. Yes, sir.

Q. And over the age of twenty-one years?

A. Yes, sir.

Q. And that you had never exhausted your right and taken up a claim before?

A. He told me I was entitled to one claim of 160 acres.

Q. Did he tell you what it would cost?

A. Yes, sir.

Q. Did he say that it was unlawful for you to make any contract or bargain, or agreement to convey it before you had made final proof?

A. No, sir; he did not.

Q. Did he say anything about being able to furnish you money to make your final proof?

A. Yes, sir.

(Testimony of John B. Reeve.)

Q. Did he talk to you as if it was his individual money?

A. I supposed at the time that it was. I supposed at the time that he was a man of considerable means.

Q. He didn't say he was hired by Mr. Cobban, or anyone else, did he? A. No, sir,

Q. Was there anything said about it being unlawful to make any contract or bargain or agreement to assign or sell the land prior to making final proof, when you had this first conversation with him, or did you understand in any way, or from any source that it was unlawful to make a bargain for the sale of this land, prior to the time of making final proof?

A. Well, I supposed it was; I supposed it was unlawful, because it is unlawful to make such a bargain with reference to a homestead, and I supposed the laws covered both cases.

Q. Then, in pursuance of this conversation that you had with Mr. Griswold, you say that you went to the Blackfoot River to look up a stone and timber claim?

A. Yes, sir.

Q. And as I remember your testimony, you testified that somebody else went with you at that time?

A. Yes, sir.

Q. Who was that, Mr. Starkey, did you and Mr. Starkie go up there?

A. Yes, sir; we went up there together.

Q. How did you and Mr. Starkie go up there?

A. We went up with a span of horses and a wagon.

(Testimony of John B. Reeve.)

Q. After getting there, what did you do with reference to finding a claim?

A. We met Mr. Jemison, according to agreements, and he went and showed us the sections of land.

Q. At this time, did you have any conversation with Mr. Jemison with reference to the sale of this land?

A. No, sir.

Q. Did you have any talk with Mr. Griswold concerning—or with Mr. Jemison, I should say—concerning what you were going to do with this land after you had taken it? A. I think I did.

Q. Well, you may state, if you will, what you said to him?

A. When we went up the creek, I made the remark quite frequently going up the creek, that it wasn't a hard matter to get the timber out on that creek; that it would not be a hard matter to build roads so as to get it out of there.

Q. What was there in your mind which prompted you to make these remarks?

A. Because I had expected that I could get a contract with the Blackfoot Milling Company to log that timber in case I should get the claim.

Q. Did you at that time know that the Big Blackfoot Milling Company had been accustomed to let contracts for the cutting of logs?

A. Yes, sir. I had been promised a contract several times in case they were to log any more; that is, to let

(Testimony of John B. Reeve.)

any more logging contracts, and I had been promised a contract.

Q. As a matter of fact, you have had one contract with them and had fulfilled it, hadn't you?

A. I had one contract with George Hammond. My contract with George Hammond was a subcontract, and he was contracting directly with the Blackfoot Milling Company.

Q. Then these logs that you were getting out for—these logs that you were getting out were for the Blackfoot Milling Company, really. A. Yes, sir.

Q. I will ask you if there was a change in the management and working of the Blackfoot Milling Company, and if the owners of the Washoe Company became the owners of the Big Blackfoot Milling Company's claim?

A. I always understood there was a change of ownership, and that it all went into the hands of Marcus Daly; that is, the whole outfit, as I understood: I didn't understand anything about the details of the matter.

Q. You understood that it was the Washoe Company, did you? A. Yes, sir.

Q. But you didn't understand that Marcus Daly was the Washoe Copper Company, did you?

A. No, I did not.

Q. Then you knew, as a matter of fact, that there had been a change there in the affairs of the Big Blackfoot Milling Company? A. Yes, sir.

(Testimony of John B. Reeve.)

Q. Did you, at any time, know that it had made any difference about their logging contract, and about their putting logs into the Blackfoot river?

A. No, sir; I did not.

Q. Now, sir, is it a fact that while you were on your way to these claims, that Albert Jemison did, while you were in camp with Albert Jemison, or at any time during your trip to locate this land, and in a conversation with Albert Jemison that he told you he would put you onto a claim, and that you could file on the claim and prove up, and that you could sell your claim to R. M. Cobban, or Cobban & Dinsmore, if you wanted to make a hundred dollars and expenses for it?

A. Never made any such contract.

Q. You are certain of that, are you?

A. Yes, sir.

Q. And there never was such a conversation between you and Albert Jemison?

A. No, sir; never had any talk to that effect.

Q. If Albert Jemison testified to that in his testimony before this court, he was mistaken, was he?

A. Certainly, he was.

Q. As a matter of fact, did you ever have any talk with Albert Jemison, or anyone whatever, with reference to selling this claim?

A. No, sir; I had no notion of selling it at the time.

Q. And, as a matter of fact, you had no notion of selling it until after you made your final proof?

A. I had no notion of selling it until I could get a

(Testimony of John B. Reeve.)

bid on it, and then I only had a notion of selling it, after putting the logs on the Blackfoot River; I calculated then to sell the timber and haul it to the Blackfoot River.

Q. Well, was there any such conversation as that between yourself and Mr. Starkie during this trip?

A. No, sir.

Q. You were with Mr. Starkie most of the time, weren't you? A. Yes, sir.

Q. Was there any such conversation as that between Mr. Starkie and Mr. Jemison?

A. No, sir.

Q. Would you have been likely to have such a conversation if it had taken place between you, or between Jemison and Starkie? A. I should; yes, sir.

Q. Now, in going upon this land, as you have described, please state to the Court what you did with reference to looking this land over?

A. If I had a piece of paper here, I could mark it out and show you exactly.

Q. The stenographer couldn't get it that way, Mr. Reeve. Go on and tell it the best way you can.

A. Well, we followed the square angle for probably half a mile from where we were camped, and then turned up to the right until we came to the corner of the section, when I was to go and look at the section corner. I did so, and from there we followed the line of that section corner across here and back again to another quarter stake. Then we went back to another

(Testimony of John B. Reeve.)

section corner—another quarter stake again, and then back again to another section corner. Then we followed through the section on the 40 acre line to look the timber over and to make sure how much timber there was on the quarter section, and then we looked over some of the other timber on the other quarters, and I selected this quarter that we had gone all around, as my claim?

Q. Did you make such an examination of the land as enabled you to testify understandingly as to the character of the land you were to enter?

A. I did.

Q. As a matter of fact, you just made this selection of the quarter section that you were to take?

A. Yes, sir.

Q. That is, you made it yourself?

A. Yes, sir, I did.

Q. Did Albert Jemison select it for you, or did you select it entirely yourself?

A. I selected it out of the section of land that he showed me.

Q. And did you take this description of the land from the markings on the trees, or did Albert Jemison take it and give it to you? A. I took the description myself.

Q. What did you do with reference to that?

A. I took down the number of the section and the number of the quarter sections, all four of them. I disremember whether it was in the square of the quarter

(Testimony of John B. Reeve.)

section or not. Possibly it was not. It might have been in an L shape.

Q. And you put it down yourself on a memorandum?

A. Yes, sir.

Q. I went to ask you if there was anything said at that time as to who the witnesses were to be?

A. There was something said as to who the witnesses were to be—as to who the parties were that were to act as witnesses for me.

Q. What did you do with reference to the selection of the witnesses?

A. I believe that I asked Albert Jemison if he would be one of my witnesses, if he could be one of my witnesses, and he said yes, he could.

Q. What kind of people did you pick out as witnesses on your final proof?

A. I suppose I picked out men that knew what the land was, and were conversant with the timber on the land.

Q. Your idea was to pick out men who knew the land, the character of it, was it not? A. Yes, sir.

Q. What was the character of this land?

A. It was on a mountain side like.

Q. Was it more valuable for agricultural purposes or was it more valuable for the timber on it?

A. More valuable for the timber that was on it.

Q. Had it ever any value as agricultural land?

A. No, sir, not a particle.

(Testimony of John B. Reeve.)

Q. You say you talked with Albert Jemison, that Albert Jemison spoke to you about it?

A. Yes, sir.

Q. Did you at that time talk—did you pick out any witnesses yourself? A. Yes, sir.

Q. Who did you pick out as your witnesses?

A. I think I picked out some witnesses. I think I named the four witnesses that were named when I made my application to enter the land, but I have forgotten who they were.

Q. Did Albert Jemison write down that description of the land or did you write it down yourself?

A. I wrote it down myself.

Q. Did Albert Jemison give you any note or memorandum to take to the land office?

A. I don't think he did.

Q. Do you remember of having taken any note or memorandum from the land to the land office when you made your filing?

A. No, sir, nothing more than the description of the land.

Q. And that memorandum you made yourself?

A. That memorandum I made myself and it was entered into my application for filing.

Q. Who made out that application?

A. I think Mr. Catlin did.

Q. Then, you didn't take any memorandum from Albert Jemison to Mr. Catlin—a note or memorandum to Catlin, and ask him to make out an application from

(Testimony of John B. Reeve.)

that note that had been handed to you by Albert Jemison? A. No, sir.

Q. As a matter of fact, you took no communication from Albert Jemison to anybody?

A. I think that is so, because I don't think I possibly could. I don't think the gentleman could write his name properly so that anybody could understand it.

Q. Now, when you made your application at the Missoula land office you had Mr. Catlin as your attorney, made out your paper to file in the United States land office, did you? A. Yes, sir.

Q. In making it out I believe you, on yesterday, or sometime, identified the sworn statement which you filed in the Missoula land office on September 8th, 1899.

A. Yes, sir, that is my signature.

Q. Now, in this statement, you say here, speaking of this land that it contains no mining or other improvements, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper or coal; that I have made no other application under said acts; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, or in any way or manner with any person or persons whomsoever, by which the title I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself. Was that true, Mr. Reeve? A. Yes, sir, it was true.

(Testimony of John B. Reeve.)

Q. Now, I will ask you to state with reference to the land of your wife. Had you—was that statement true with reference to the land of your wife, as far as you were concerned? A. Yes, sir.

Q. Your wife made a filing shortly after the time when you did, as I understand it? A. Yes, sir.

Q. And her sworn statement was filed to the same effect in the land office at Missoula, was it?

A. Yes, sir.

Q. Then you had never made any agreement that your wife or on behalf of your wife, to sell the land on behalf of your wife, when the sworn statement was made? A. No, sir.

Q. It appears that at the time when you appeared to make your final proof in this case that Albert Jemison appeared as one of your witnesses and Robert Starkie appeared as the other. Do you remember the fact of their having appeared as your witnesses in this case?

A. I cannot remember whether Robert Starkie appeared as my witness, or not. I feel positive that Mr. Jemison did.

Q. Now, in making your final proof, you remember of having appeared at the land office, do you?

A. Yes, sir.

Q. You remember of certain questions having been propounded to you and answered, do you, at that time?

A. I remember of them being propounded to me, the questions, oh, yes; but what they were I couldn't say without refreshing my memory.

(Testimony of John B. Reeve.)

Q. You remember you answered the questions that were propounded to you, do you? A. Yes, sir.

Q. This question was propounded to you at that time, Mr. Reeve: "Have you sold or transferred your claim to this land since making your sworn statement, or have you directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title you may acquire from the Government of the United States, may inure, in whole or in part, to the benefit of any person except yourself" to which you answered "No, sir." Was that answer correct?

A. That answer was correct, yes, sir.

Q. That answer was true at the time you made it, was it?

A. It was true at the time I made it, yes, sir.

Q. You were also asked this question, Mr. Reeve: "Do you make this entry in good faith, for the appropriation of the land exclusively to your own use, and not for the use or benefit of any other person"? Your answer is, "Yes, sir." Was that answer true?

A. Yes, sir.

Q. This question was also asked you, Mr. Reeve: "Has any other person than yourself, or has any firm, corporation, or association, any interest in the entry you are now making, or in the land, or in the timber thereon?" to which you answered, "No, sir."

A. Yes, sir.

Q. Was that answer true?

(Testimony of John B. Reeve.)

A. That was correct, yes, sir.

Q. That was your answer, made at that time, was it? A. Yes, sir.

Q. Now, with reference to the final proof of your wife I will ask you to state whether or no your wife answered similar questions? A. I think she did.

Q. I will ask you to state whether the answers made by your wife were true, and whether to your knowledge there had been any contract or agreement with reference to the sale of your land?

A. There positively never has been.

Q. There never was any contract made by her to sell her land to anybody, was there?

A. No, sir, no contract whatever.

Q. Then you mean to say that your interest and hers were the same? A. Yes, sir, identically the same.

Q. And the fact that the land was not sold or transferred after you made your sworn statement, and no contract or agreement made in any manner, with any person, was true in her case, was it?

A. Yes, sir, that is true.

Q. There has been some testimony here by your wife, that she left all of these matters in your hands for attention. That is, the business portion of it. As a matter of fact, Mr. Reeve, did you ever at any time talk with anybody, or consult with anybody, or advise with anybody as to the sale of either your own land or the land of your wife between the time of your making your

(Testimony of John B. Reeve.)

declaratory statement, your sworn statement, and the time when you made your final proof upon the land?

A. Never, no, sir, I never did.

Q. Have you any knowledge of any contract having been made by anybody in your behalf, or on behalf of your wife, with reference to the sale of this land?

A. I am positive there never was any contract.

Q. You said, I believe, that you had made an agreement with a man by the name of Griswold to pay him $100.00 to locate you upon this land, and to borrow the money with which to make your final proof?

A. Yes, sir, I did.

Q. As a matter of fact, did he borrow the money for you, with which to make your final proof?

A. He did not, no, sir.

Q. Now, I will ask you to state, if as a matter of fact, when your final proof was made, you got your money on the day your final proof was advertised to take place. And isn't it a fact that you paid, or directed the payment into the land office at a later date? I quote from an affidavit by the witness as follows: "Department of the Interior, United States Land Office, Missoula, Montana, August the first, 1900. John B. Reeve, being first duly sworn according to law, deposes and says that he is the same person who made timber and stone entry number 1086, November 25th, 1899, for the south half of the northeast quarter, and the west half of the southeast quarter of section four, township 14, north, of range 16 west, M. M., that the final proof in said mat-

(Testimony of John B. Reeve.)

ter was not made on November 7th, 1899, the date given in his published notice, for the reason that he was disappointed in obtaining the money with which to make payment for said land. That he had made arrangements with parties at Missoula, and had been promised the necessary money, but that on November 7th, said parties were absent from the town of Missoula, and he could not get the money from them until the 25th of said month. That he went to the United States land office at Missoula, Montana, and stated to them the facts in the case, and was by the officers advised, that he could wait until said parties returned to Missoula, and that the delay for a few days would not cause the rejection of said proof. (Signed) John B. Reeve. Subscribed and sworn to before me this 7th day of August, 1900. Elmer E. Hershey, Register." Did you make that affidavit at the time stated, Mr. Reeve?

A. Yes, sir, I did.

Q. And are the matters and things therein stated true? A. They are true, yes, sir.

Q. How did it happen that you didn't get the money on the date that you had intended to make final proof?

A. Mr. Cobban was absent from the city.

Q. You had arrangements made, as I understand it, to obtain the money with which to make your final proof?

A. I had the promise of the money, yes, sir.

Q. You had made arrangements for a loan, or to

(Testimony of John B. Reeve.)

borrow the money with which to make your final proof, had you? A. Yes, sir.

Q. So it wasn't for a week or so after your final proof should have been made, when you actually did make your final proof?

A. On the 25th I believe, when I made the final proof.

Q. Now, were you a witness for anybody else upon their final proof in any of these cases, Mr. Reeve?

A. Yes, sir.

Q. For whom were you a witness?

A. For Mrs. Ehle.

Q. You appeared and testified for her, did you?

A. Yes, sir.

Q. And in giving your testimony in her case, I presume you gave your testimony to the best of your knowledge, information and belief? A. Yes, sir.

Q. You had no object in falsifying or making any statements which were not true, did you?

A. None whatever.

Q. Now, you were interrogated with reference to a man by the name of Stairs. Wasn't that the name of the man concerning which you were interrogated this morning? A. Yes, sir.

Q. What are his initials?

A. If he had any I have always heard him called Mell.

Q. Mell Stairs? Where did he live when you first knew him?

(Testimony of John B. Reeve.)

A. My first acquaintance with him was when he was living up in the Blackfoot country.

Q. What was he doing there?

A. Keeping a stopping place or saloon.

Q. How far was that from Bonner?

A. I think it was in the neighborhood of ten miles; either nine or ten miles.

Q. Above Bonner on the Blackfoot River?

A. Yes, sir.

Q. Was it on the part of the Blackfoot River where logging was ever done? A. Yes, sir.

Q. Did you have an intimate acquaintance with this man Mell Stairs?

A. No, not at that time, I never did—I never had seen him until I went up there to work at that time.

Q. When did you go up there to work?

A. I went up from the place that I was living to see if I couldn't get a contract with Mr. Hammond.

Q. What year was that?

A. That was the year 1898, I believe. No, when I went up there, it was in the year 1897.

Q. And you worked up there that fall of 1897, and the winter of 1898? A. Yes, sir.

Q. How long were you there?

A. I was there about three months and a half.

Q. Did you become intimately acquainted with Mell Stairs at this time?

A. Well, I saw him quite frequently.

(Testimony of John B. Reeve.)

Q. As a matter of fact, did you have any business dealings with him?

A. Well, I did for a little bit when I first went up there. We located in an old logging camp where we expected to operate during the winter, and when we did I decided to go back to the Bitterroot valley after my family and bring them there, and have them with me that winter. And my wife, I expected would do the cooking for the crowd, and she did. I went to Mr. Stairs, not having quite money enough to go down and bring my family back. In the first place, I went to Mr. Hammond to get the money, and he didn't have any in his pocket, and he told me Mr. Stairs would let me have it, and I went to Mr. Stairs and borrowed the money to pay the expenses of getting to the camp from the Bitterroot with my family.

Q. Nor, at this time or at any subsequent time, did you have any business transaction with this man Stairs?

A. Afterwards?

Q. At that time, or afterwards.

A. I understood from Mr. Starkie, who drove the supply wagon or the supply sleigh, that he could get some oats of Mr. Stairs at his place.

Q. For you? A. For me, yes, sir.

Q. When was that?

A. That was during the winter when I was logging there.

Q. Now, in these business transactions, which you had with Mr. Stairs, did you create the condition of

(Testimony of John B. Reeve.)

debtor and creditor between yourself and him? That is, did you become his debtor to any considerable amount?

A. I always understood that he paid my bill—that Mr. Stairs put my bill into Mr. Hammond, and that he paid it.

Q. And was it paid by Mr. Hammond?

A. I always thought it was.

Q. Was it charged to you by Mr. Hammond?

A. I don't remember whether it was or not. In fact, I never had a settlement with Mr. Hammond in my life.

Q. As a matter of fact, you were doing this logging for Mr. Hammond, weren't you? A. Yes, sir.

Q. And he became indebted to you for the cutting and hauling of logs?

A. Not for the cutting but for the hauling of logs.

Q. You had supposed that the transaction was settled between Mr. Hammond and Mr. Stairs?

A. I supposed it was.

Q. Well, do you know whether it was or not?

A. No, because Mr. Hammond and I never had a settlement.

Q. I will ask you now if you have any reason to know whether it was settled or not?

A. I don't know that it ever was settled.

Q. Has Mr. Stairs ever asked you for a settlement?

A. Never in his life.

Q. Then you supposed—and had a right to suppose that it had been settled by Mr. Hammond?

(Testimony of John B. Reeve.)

A. Yes, sir; I suppose so.

Q. What kind of a saloon did this man Stairs run down there?

A. I couldn't very well say. It was a common looking saloon.

Q. A wayside stopping place, was it?

A. Yes, sir.

Q. Do you have any recollection now of an occurrance at that stopping place during the time that you were engaged in this contract that you have testified with reference to, and a shooting scrape occurring there?

By Mr. MAYNARD.—I object to that as so far outside reasonable and legitimate cross-examination as in no way being competent testimony.

A. Yes, sir; I remember it.

Q. Will you go on and state what occurred please, what happened at that time under your own observation.

By Mr. MAYNARD.—I object to all this for the reason that it is incompetent and manifestly improper cross-examination.

A. Really, I am a little ashamed to tell anything about it.

Q. Go on and tell?

A. Well, I wasn't there at the time of the shooting, at the landing.

Q. You didn't get shot?

(Testimony of John B. Reeve.)

A. No, sir; I wasn't at the landing, where we landed our logs. I was back up in the woods, where we were loading logs, and the landing man that I had working on the landing was there, and he saw the shooting and the gentleman that got shot, came up to our camp.

Q. Who did the shooting? A. Mrs. Stairs.

Q. Now go on and state what happened?

A. When he came up to me his hands were all covered with blood, and there was a hole through his hand made with a 22 revolver I suppose. My wife and daughter went to work and dressed his hand, and bound it up with a cloth, and he was ready to go back down there again, and finally after I got him to camp another gentleman that had been with him, came in and wanted him to go immediately to Missoula and have Mrs. Stairs arrested for shooting, and I inquired of them what the circumstances were with regard to the shooting, and they told me as near as they could I suppose. I advised them at the time to drop it, and not have Mrs. Stairs arrested at all, because I considered it partly their own fault; and that it wasn't the proper thing to do. He promised me that he wouldn't. He stayed there that night and we took care of him. I don't know what became of him the next day, but I presume he went to Missoula, and the matter went on, and I suppose it was dropped; but this landing man disappeared. He quit the job, and said he was afraid to stay there, and went off, and went somewheres else to work, and not a great while afterwards my wife and I were sub-

(Testimony of John B. Reeve.)

poenaed on that case by Mrs. Stairs, the defendant. She was arrested, had been arrested. The case was put over for another term of court and we were subpoenaed again, and went down there to that term of court, but the case never came up and never was tried.

Q. Did you overhear any conversation between Mrs. Stairs and the party who was shot with reference to the party leaving the country, or anything of that kind?

A. Which party do you mean?

Q. Well, the party who was shot? Or the party who was a witness to it?

A. The party who was shot?

Q. Yes, sir?

A. Why, yes. The night before the day of the trial he was gone out of the country.

Q. Who do you mean?

A. The prosecuting witness.

Q. Well, by what means under what arrangement?

A. He was interviewed in Missoula, and that night, during the night, was sent out of the country, or got money and went out of the country.

Q. Who gave him money?

A. Mr. Stairs said he gave him money to get out of the country.

Q. Now, you remained, you say, at this place?

By Mr. MAYNARD.—I now move to strike out from the record, all the testimony of the witness that has been drawn out by counsel, relative to this shooting matter, upon the theory that it is entirely irrelevant

(Testimony of John B. Reeve.)

to this issue, and incompetent, and in no way can it be tortured into legitimate cross-examination of this witness.

Q. You stayed there you say, for about three months, or three months and a half at the place where you logged during the fall of 1897 and the winter of 1898.

A. Yes, sir.

Q. You finally completed your contract there, did you not? A. No, sir, I did not.

Q. You went away then before the contract was finally completed?

A. No, sir, the contract was taken away from me; the job was taken away.

Q. Oh, the job was taken away from you, was it?

A. Yes, sir, and finished by Mr. Hammond while I was there.

Q. Where did you go to from that point?

A. I went to Missoula.

Q. How long did you remain there?

A. I didn't remain there but a few days.

Q. Where did you go from there?

A. I went up to the Bitterroot onto my ranch—on a ranch that I rented.

Q. At what point?

A. I rented a ranch from Mr. Dave McLay.

Q. You stated, I believe that you took a contract for fixing a road or grading the road between Missoula and the Lo Lo. Was that near the ranch that you—

(Testimony of John B. Reeve.)

was that contract near the ranch that you rented from Dave McLay?

A. No, sir, that was about six miles from Missoula.

Q. From the ranch?

A. Yes, sir; that is from the ranch, from one end of the ranch.

Q. Was this renting of the ranch before you took the contract for the grading of the road?

A. Yes, sir.

Q. Yes, the summer before, wasn't it?

A. Yes, the summer before.

Q. And then you remained on McLay's place about a year? A. No, about six months.

Q. And the following summer you took this contract for the grading of the road? A. Yes, sir.

Q. Now, you did no lumbering then from the time you left the Blackfoot until you went down to Idaho?

A. Oh, yes.

Q. Where did you lumber?

A. I worked the next winter for Mr. Kilburn.

Q. Whereabouts is that?

A. That was about three miles from Potomac.

Q. You lumbered then in the following winter on the Blackfoot again? A. Yes, sir.

Q. Well, now, during this time, that you were in the Blackfoot country, and working in the lumbering operation, you didn't make any stone and timber filing?

A. No, sir.

Q. Your wife made a timber and stone filing in 1899

(Testimony of John B. Reeve.)

under the circumstances that you have described to us?

A. That is right.

Q. Well, now during the time that you were up in the Blackfoot country, I wish you would state whether or not the Blackfoot Milling Company was letting contracts for logging.

A. Why, most assuredly. Mr. Dodds had a contract for logging; Mr. Kilburn had a contract for logging; Mr. Jemison had a contract; Mr. Watson had a contract; Mr. Hammond had a contract—and I forget who did—there was a good many of them. There was a good many that first winter that I was up there that had contracts. This second winter when I was up there, there was a good many that had contracts. Mr. Boyd had a contract.

Q. Then I suppose these trees were cut down and the logs hauled down along the bank of the Blackfoot River? A. Yes, sir.

Q. Now, that is the kind of a contract you had in mind when you thought of entering this timber land?

A. Yes, sir.

Q. As a matter of fact, don't you think that is what was in your mind during the time when you entered this land, and during the time that you made final proof?

A. Well, that is one idea about it.

Q. That is, you had more than one string to your bow?

A. Well, I can hardly say that I did; I had my mind—I had been promised a contract by Mr. Totman, really

(Testimony of John B. Reeve.)

before I left the Blackfoot country, and I partly expected to get money that fall out of a contract—I expected to get a contrat that fall from Mr. Totman.

Q. And you expected to prove up on your timber claim, and use your timber claim, that is, the timber on it for the purpose of filling a contract that you expected to get. A. Yes, sir.

Q. How was it that you made arrangements to make final proof if you had intended to log in this way?

A. I didn't myself have the money to make the final proof, and I thought that if I succeeded in getting a contract I knew that I could borrow this money and take up a claim.

Q. I see. Then it was your intention to make final proof on money which you borrowed and to pay it back out of the proceeds of the money you expected to get out of the logging operation? A. Yes, sir.

Q. That was your idea, of doing that, wasn't it?

A. Yes, sir.

Q. And, as a matter of fact, you are disappointed in getting the logging contract, when you talked with Mr. Totman about it?

A. Mr. Totman positively stated to me that they were not going to let any logging contract that fall at all.

Q. Now, at the time that your wife was cooking for you up on the Blackfoot, I suppose that you handled her money that she earned at that time, didn't you in con-

(Testimony of John B. Reeve.)

nection with your other business affairs, or was she just working with you for the purpose of helping you out?

A. As the result was, her and I both put our work in that winter for nothing; didn't receive anything for it.

Q. As a matter of fact, in your household arrangements, and your dealing with the business of the household, and taking care of the business affairs of the household, you really took care of the financial end of it?

A. Yes, sir.

Q. Well, then, in dealing with this money that your wife received from the sale of the land that has been testified to here, you dealt with the money in the same way that you had always theretofore dealt with money.

A. Just exactly, yes, sir.

Q. Wasn't it a matter of fact that you dealt with the money at her request and for her?

A. Most assuredly I did.

Q. Then the money that you got from this land was her money, and at her request you dealt with the money for her?

A. She allowed me to appropriate to our benefit—for our use and benefit.

Q. And it really was used to your mutual and general benefit at her request? A. Yes, sir.

Q. There was never, and has never been any question arisen between you as to the use by you of her money, has there?

A. Never had a quarrel over it in the world.

Q. Now, I believe you stated in your examination in

(Testimony of John B. Reeve.)

chief that you nevre had any conversation with Mr. Griswold about selling this claim to any person?

A. I never did; no, sir.

Q. You never made any agreement or contract with him to sell the land to any person, did you?

A. No, sir.

Q. Did he ever at any time tell you that he would like to buy the claim from you? A. No, sir; he did not.

Q. Did you ever have any talk with him whereby he said he would give you $100.00 over and above the expenses? A. No, sir.

Q. Did he ever approach you with the idea of your selling him this land at any price? A. No, sir.

Q. Did he ever represent to you that he was buying this timber for Mr. Cobban, and would be glad to purchase your timber? A. Never.

Q. Did he ever disclose to you anything as to what connection he had with Mr. Cobban?

A. Nothing more than that he was estimating timber for Mr. Cobban, and, as I supposed, whenever Mr. Cobban agreed to loan money on a piece of timber land, or with the expectation of getting security on that land for the money sent Mr. Griswold to estimate the timber.

Q. In that way he would find out the value of the security before, or at about the time the money was loaned?

A. Yes, I suppose that was it. That was the understanding I had about it.

Q. Did you try—do you remember the time, Mr. Reeve, that a suit was commenced by Mr. Griswold against Mr.

(Testimony of John B. Reeve.)

Cobban wherein Griswold claimed a certain amount of money was due him from Mr. Cobban?

A. I remember there was such a case.

Q. Do you remember about when that was?

A. I think that was in the fore part of last summer, early in the spring.

Q. Did you have any conversation with Mr. Griswold at all concerning that case? A. Yes, sir.

Q. Or concerning the things which led up to the bringing of the case? A. Yes, sir.

Q. Where was that conversation?

A. I had a conversation with Mr. Griswold right in front of the Daly Block one time with regard to that case?

Q. About when was it? A. I think it was in May.

Q. May of 1901? A. Yes, sir. 1901.

Q. Wasn't it in March, 1901?

A. Well, I don't remember now about that.

Q. Or the 27th of April, 1901, wasn't it about that time?

A. Well, now, I wouldn't be positive as to that.

Q. But it was in the year 1901?

A. It was in the year 1901.

Q. Well, are you not certain that it was at the time when this case was pending?

A. I know it was pending, yes, sir.

Q. Hadn't yet been determined?

A. No, sir, it hadn't yet been determined.

Q. I will ask you to state whether or not at that time Griswold didn't state to you that he was getting a man to

(Testimony of John B. Reeve.)

come here to investigate these land entries? Didn't he make that statement to you?

A. He stated to me that he had been having a man come from Washington.

Q. Come from Washington to Missoula to investigate these land entries?

A. To investigate these land entries, yes.

Q. Didn't he say at that time that he hadn't committed himself so that if Cobban would settle with him he could do him, Cobban, a good deal of good? A. Yes, sir.

Q. He also said at that time that he could do Cobban a good deal of harm, didn't he? A. Yes, sir, he did.

Q. I will ask you to state that conversation?

A. He said, "Why don't you go to Mr. Cobban and have him settle with me, so that it won't cause you people so much trouble?"

Q. That is, he wanted to stop the investigation at that time?

A. He seemed to want to put a stop to the investigation.

Q. Didn't he also say that if Cobban wouldn't pay up he was going to bring a good many prominent men into trouble? A. Yes, sir, he did.

Q. I wish you would go on and give the purport of this conversation. Give it all as near as you can.

A. He first—the first time I had any talk with him about that, I think it was the first time, he stated to me that he had a case pending against Mr. Cobban for $3,400.00 and if he didn't pay that he had a way whereby he

(Testimony of John B. Reeve.)

could put that son of a bitch behind the bars, and he would do it if it took him ten years to do it.

Q. That is the remark that was made, is it?

A. Yes, sir.

Q. And that was made to you at the time this suit was pending? A. Yes, sir.

Q. What else was said there at that time with reference to this matter?

A. Well, really, I couldn't remember just what was said.

Q. Well, was there any other conversation about this matter that you had with Griswold?

A. I remember he stated that—whether it was at that time or not I don't remember that if Mr. Cobban would settle with him he could put a stop to this investigation; that he hadn't gone so far but what he could put a stop to this investigation.

Q. Did he intimate to you that he would settle it and put a stop to it if Mr. Cobban would pay him the $3,400.00?

A. That is what I understood from him.

Q. Then the stopping of this investigation was to be the payment of $3,400.00 from Cobban to Griswold?

A. That is the way I took it.

Q. Well, then the notion that you got from this all told was that it was a scheme on the part of Griswold to blackmail Mr. Cobban out of this money.

By Mr. MAYNARD.—I object to that as entirely illegal and incompetent to the issues; and to so lead his witness and to put words into his mouth that have noth-

(Testimony of John B. Reeve.)

ing to do with the case, is entirely incompetent and utterly illegal cross-examination.

Q. Go on, Mr. Reeve and state.

A. I made up my mind at that time that it was a blackmailing scheme for the reason that Mr. Griswold was chasing me like a dog at the time. He had got those four affidavits and he was going all over the city of Missoula and trying to get me to go to Mr. Dreffen's private office to give my affidavit.

Q. Did he as a matter of fact, succeed in getting an affidavit from you?

A. He tried to get me to Mr. Dreffen's private office, and I refused to go.

Q. What did he want you to go for at the time?

A. Well, as I say to get an affidavit from me.

Q. Didn't he state that he had got some affidavits?

A. He said that he had got four affidavits.

Q. Did he say whose affidavits they were?

A. He said that they were Albert Jemison's affidavit and Tom Bryan's affidavit and the Dodds.

Q. There was four altogether? A. Yes sir.

Q. Were those affidavits in relation to this matter, or in relation to the lawsuit that was pending in Missoula?

A. In reference to the land investigation.

Q. At that time did you know anything, Mr. Reeve, about illegal entries having been made under the Stone and Timber Act? A. No, sir; I did not.

Q. Were you acquainted with many of the people that had made timber and stone entries? A. I was not.

(Testimony of John B. Reeve.)

Q. Just those relatives of yours, were all that you knew anything about?

A. I was slightly acquainted with the Dodds.

Q. Not familiar with them? A. No, sir.

Q. Then you know nothing concerning other land entries, did you?

A. No, not a word. I knew that they had entered land because I saw the names advertised in the paper for making final proof.

Q. Now, since you have come here to this town for the purpose of testifying in this case, have you had any talk with Mell Stairs?

A. Yes, sir. Mr. Stairs sat down by the side of me over there and he says to me, "They have got you over here again, have they?" And I said, "Yes." And he said, "They are not after you people at all; they don't mean to injure you people at all, but they are after Mr. Clark." I said, "I don't give a damn who they are after; I came here to tell the truth, and nothing else."

Q. The intimation was, then, that Mr. Stairs was after Mr. Clark? A. Somebody was after Mr. Clark.

Q. Did he say definitely and specifically who it was?

A. He said "they—"

Q. Did you know to whom he referred?

A. I suppose the United States Attorney.

Q. Did you have any further or other conversation with him? A. Not at all.

Q. Haven't talked with him before or since until you came to town here to Helena? A. Not at all.

(Testimony of John B. Reeve.)

Q. And that was all that said between you and him at that time? A. That was all.

Q. Now, what business are you engaged in down in Idaho, Mr. Reeve?

A. For the last three months I haven't been engaged in any business; I have been laid up.

Q. With what? A. With a broken leg.

Q. What business were you engaged in before that?

A. I was logging when I got my leg broke.

Q. Whereabouts in Idaho was that?

A. It was in the Idaho basin—Boise basin, I should say. The Boise basin.

Q. As I understand you, at the time when you went to Mr. Cobban's office, and offered him security on this timber and stone claim, for money that you had borrowed from him, he, at that time, proposed that you deed the claim to him.

A. He did at the time; he made an offer for mine and my wife's claim.

Q. Prior to that time had you had any talk with anybody or had you had any conversation with anybody about selling these claims for anybody? A. No, sir.

Q. You had no talk with Mr. Cobban about selling the claim to him? A. No, sir.

Q. Or with Mr. Griswold? A. No, sir.

Q. Or with Albert Jemison, or with Jakways & Faust?

A. No, sir. I don't know the gentlemen.

Q. Or with E. R. Kilburn? A. No, sir; never.

(Testimony of John B. Reeve.)

Q. You say that you had no conversation about selling your claim? A. No, sir; never.

Q. And it was only when an offer was made to you that you considered reasonable that you sold the land?

A. When the offer was made to me I sat down and figured it out, the number of feet of lumber there was on the claim and on each one of our claims, and after I had figured it up it was in the neighborhood of $1.00 for the stumpage on each of the locations, and after I had figured it out I came to the conclusion that it was a fair offer and as good a one as I could get.

Q. Will you explain to me how it was when you made an agreement with Mr. Griswold to pay him a hundred dollars for loaning you, or for negotiating a loan for you, with which to make your final proof on this land, that you didn't negotiate the loan for Mr. Griswold. In other words, it appears from your testimony that Mr. Griswold didn't furnish you the money.

A. Very true, the reason I didn't do it was, I wanted —I went to Mr. Cobban to know if I could borrow the money of him.

Q. And you went to him and explained the agreement that you had made with Mr. Griswold.

A. Yes; certainly.

Q. And then you dropped the agreement so far as borrowing the money from Mr. Griswold was concerned?

A. Yes, sir; I told him that it made no difference when I got the money that Mr. Griswold was entitled to a hundred dollars.

(Testimony of John B. Reeve.)

Q. Then you intended to pay Mr. Griswold the amount you had agreed to pay him whether you got the money or not? A. Yes, sir.

Q. And that was just for locating you on this claim?

A. Well, if I obtained the land, which might suit me—I didn't know where he was going to get his money, but I thought I might make better arrangements with somebody that I was better acquained with, and if I did so I thought it would be all right, and that Mr. Griswold should have his hundred dollars according to our agreement.

Q. And you arranged that he should receive it?

A. I arranged that he should receive it, yes, sir.

Q. And now, with reference to this conversation that you are asked about, a woman by the name of Mrs. Lawrence. A. Yes, sir.

Q. You say you don't know a woman by the name of Mrs. Lawrence? A. No, I don't.

Q. Your wife isn't here, you can answer freely.

A. I do not.

Q. You don't know any such woman?

A. I do not, no, sir.

Q. Did you ever ask Mr. Griswold to locate Mrs. Lawrence upon a timber claim?

A. I never asked him to locate anybody outside of my own family.

Q. Were you very well acquainted in Missoula?

A. Well, I wasn't very well acquainted in Missoula.

(Testimony of John B. Reeve.)

I was acquainted with some of the business men there, and that is about all.

Q. You noticed during the time of your examination and while you were being interrogated by Mr. Maynard, counsel for the Government, and frequent conferences between Mr. Maynard and Mr. Griswold, did you?

A. Yes, sir, I did.

Q. And that there would be a conference between the two parties, and that he would then come to the table and ask you questions. Did you notice these conferences? A. I did, yes, sir.

Q. You noticed that these conferences, one of them, at least, occurred just prior to asking you concerning this Mrs. Lawrence? A. Yes, sir.

Q. Did you ever have any talk with Mr. Griswold with reference to a Mrs. Lawrence?

A. Never in my life.

Q. Not about anything on earth?

A. Not about anything on earth.

Q. Never mentioned the name of Mrs. Lawrence to him? A. Never knew Mrs. Lawrence.

Q. You were asked concerning a conversation you had with Mrs. Stairs—in the presence of Mrs. Stairs this morning, do you remember of ever having had a conversation in the presence of Mrs. Stairs concerning the timber and stone entry?

A. No, sir, I did not. I don't think—

Q. Do you know her?

A. I know her, but I don't think I ever have seen the

(Testimony of John B. Reeve.)

lady since the winter I worked for Mr. Kilburn on the Blackfoot.

Q. What winter was that?

A. That was the winter of 1897-8. No, 1898 and 1899, I think. Yes, 1898 and 1899.

Q. Then you never had any conversation in her presence concerning any timber and stone entry, or any other matter that you now remember of?

A. No, sir, never.

Redirect Examination.

(By Mr. MAYNARD.)

Q. Now, I understood you to say that you negotiated this land with Mr. Cobban for the five members of your family, and that Mr. Ehle was not one of them. That he did his work himself. Was that true?

A. Oh, I never said any such thing as that. Didn't I say I negotiated the land for myself and wife, from Mr. Cobban and asked him if he would loan the rest of them the money?

Q. I thought you spoke about five.

A. I asked him if he would loan the rest of my family the money.

Q. And didn't you say that you attended to the matter for the five, and that Mr. Ehle was not included?

A. No, sir, I did not.

Q. You did not? A. No, sir.

Q. You had nothing to do with them?

A. I had nothing to do with them, except to ascertain if they could borrow the money from Mr. Cobban.

(Testimony of John B. Reeve.)

Q. And as to the circumstances of their obtaining the loan you knew nothing about it?

A. I left it to them to negotiate.

Q. Now, you referred to this civil suit that Mr. Griswold brought in the District Court of Missoula county to recover $3,500.00 or $3,300.00, wasn't it?

A. $3,400.00.

Q. $3,400.00 against Mr. Cobban for services in this matter. You were considerably interested in that matter yourself, were you not?

A. I was not.

Q. Mr. Cobban didn't hire you to look up witnesses for him? A. No, sir, he did not.

Q. Did you look up any witnesses for him?

A. No, sir.

Q. Not one; not at that time?

A. No, sir, not at that time.

Q. Well, when did you?

A. I went—no, I never looked up a witness for Mr. Cobban. Never did in my life.

Q. Well, what were you going to say when you started the sentence, "I went"?

A. I went up in the Blackfoot country, for a man that Mr. Cobban wanted to see, but not as a witness.

Q. When was that?

A. I cannot remember the date. Mr. Cobban sent me after a man.

Q. Was this before the suit was discontinued by Mr. Cobban, paying Mr. Griswold's claim on a compromise?

(Testimony of John B. Reeve.)

A. Well, I wouldn't be positive whether it was before or afterwards.

By Mr. WALSH.—We object to that question as assuming a fact that has not been testified to by this witness, namely, that Mr. Cobban settled Mr. Griswold's claim by paying him a certain amount in compromise.

Q. You don't remember whether it was before or after?

A. I don't remember whether it was before or after.

Q. Well, who did you go to see?

A. I went up and brought Albert Jemison down to Missoula.

Q. Cobban sent you up into the Blackfoot country to get Albert Jemison? A. Yes, sir.

Q. And you say you don't know when that was?

A. I don't remember just when that was. It was—

Q. It was what; what month was it?

A. It was, well, I forget what month it was. I couldn't say what month it was.

Q. Do you know what year it was?

A. Yes, I remember the year it was.

Q. Well, what year was it?

A. It was the forepart of 1889.

Q. The fore part of 1889?

A. No, the fore part of 1891—the fore part of 1901.

Q. The fore part of 1901? A. Yes, sir.

Q. That was last year then?

A. Yes, sir, that was last year.

Q. Well, if the suit wasn't settled until June of 1901,

(Testimony of John B. Reeve.)

you must have gone up after Albert before the suit was settled then.

A. Possibly I might, I wouldn't be positive whether it was before the suit was settled or afterwards.

Q. How much did Mr. Cobban pay you for that?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial, and has no bearing upon the issues in this case.

A. I couldn't remember just exactly what he did give me for it.

Q. You cannot remember how much Mr. Cobban paid you?

A. Well, now, I know what I got out of it, or what I had out of it.

Q. Well, what was that?

A. I had a gold piece to pay my expenses with, but just how much there was left out of it after paying my expenses, I don't remember, but at any rate, I never gave Mr. Cobban anything out of it. I kept that for my services.

Q. Well, do you remember how much the gold piece was?

A. Well, now, I wouldn't be positive whether it was a ten dollar gold piece or a twenty dollar gold piece.

Q. Is it possible that you cannot say now when Mr. Cobban gave you a gold piece for that purpose whether it was a ten dollar gold piece or a twenty dollar gold piece?

(Testimony of John B. Reeve.)

A. I won't be positive whether it was a ten dollar gold piece or a twenty dollar gold piece.

Q. Well, did you get Mr. Jemison?

A. I did.

Q. And took him down to Mr. Cobban?

A. I did, took him down to Missoula.

Q. What else did you do for Mr. Cobban?

A. Didn't do anything else.

Q. That is the only service you rendered for him?

A. At that time, yes.

Q. Well, when was the other time that you rendered any services in connection with Mr. Cobban?

A. Never.

Q. Did you know that you were indicted for perjury in this matter?

A. I know that there as an illegal indictment out against me for perjury in this matter.

Q. You were never arrested, were you?

A. Yes, sir.

Q. Oh, you were? A. Yes, sir.

Q. Did you come here to plead to the indictment?

A. Yes, sir.

Q. And are now out on bail?

A. I don't know whether I am out on bail or not. I don't think I am. At least, I don't know that I am. I trusted that matter to my attorney, and I supposed that matter was all settled long ago. Nobody ever told me it was settled.

(Testimony of John B. Reeve.)

Q. Had you any lawyers in the matter, to represent you? I had at that time.

Q. Who were they?

A. Marshall & Stiff of Missoula.

Q. Did you ever pay them anything?

By Mr. WALSH.—We object to this. We are not trying criminal cases here now.

Q. Mr. Reeve, did you ever pay them anything?

A. No, I did not.

Q. How did that come about? How did they come to be your lawyers, then?

A. They were employed to make out pleas in abatement.

Q. By whom?

A. I couldn't say who employed them. I supposed for both Mr. Cobban and Mr. Catlin and everybody that was concerned.

Q. Don't you know that Mr. Cobban and Mr. Catlin are paying the whole business for all of you?

A. What?

Q. Don't you know that Mr. Cobban is paying the expenses of all the men and women that have been indicted?

A. I don't know it, but if he is, he is very generous.

Q. But you do know that you haven't paid anything?

A. I know that I haven't paid anything.

J. B. REEVE.

(Testimony of Mrs. Lizzie A. Wells.)

Subscribed and sworn to before me, this 26th day of March, 1902.

HENRY N. BLAKE,
Examiner.

Mrs. LIZZIE A. WELLS, a witness on behalf of the complainant, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. Where do you live, Mrs. Wells?

A. Near Ovando.

Q. How long have you lived there?

A. Very nearly sixteen years.

Q. Are you a married woman? A. I am.

Q. What is your husband's name?

A. Lewis Adelbert Wells.

Q. How far do you live from Ovando?

A. Nine miles.

Q. Do you know Jackaways & Faust?

A. I do.

Q. Did you make any entry under the Stone and Timber Act? A. I did.

Q. And proved up on it and sold it to Mr. Cobban?

Mr. WALSH.—We object to any testimony from this witness or any witness concerning any entry of land made by the witness, upon the ground that there is no allegation in the bill of complaint concerning any alleged fraudulent entry by the witness, nor any alleged

(Testimony of Mrs. Lizzie A. Wells.)

fraudulent conveyance of the same or conveyance of the same by her to any person and particularly to the defendant, and that for this reason the evidence is incompetent and immaterial.

Mr. MAYNARD.—The Government desires to say in answer to that that it distinctly disclaims any fraud whatever upon the part of this entry and concedes the payment was made by the witness with her own money.

Q. Do you know about when you made your filing statement?

A. It was in August, I think, some time, but I cannot state positively.

Q. Of 1899? A. Yes, sir.

Q. When you came to give your final testimony in the case and make your final payment for your land were you accompanied here to Helena by anybody?

Mr. WALSH.—We object to that question for the reason that it is leading.

A. Yes, sir.

Q. Who was that person? A. My husband.

Q. Anyone else?

Mr. WALSH.—We object to that question for the reason it is leading.

A. No, sir.

Q. You may state as to whether you met Mr. Griswold who is sitting here by my side after you reached Helena?

(Testimony of Mrs. Lizzie A. Wells.)

Mr. WALSH.—We object to that question for the reason it is leading.

A. We did.

Q. Did he see you at that time and place in connection with this matter that had called you here?

Mr. WALSH.—We object to this question for the reason it is leading.

A. Yes, sir.

Q. Had he seen you before this?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. I had not seen Mr. Griswold for about three weeks before.

Q. Where did you see him three weeks before?

A. He was there at our house.

Q. At your house? A. Yes, sir.

Q. You may state as to whether or not you had a conversation relative to your filing and taking up a claim?

Mr. WALSH.—We object to that as immaterial, irrelevant, incompetent and as hearsay.

A. I did.

Q. When was the first conversation as near as you can get at it with Mr. Griswold on that subject?

Mr. WALSH.—We object to this question for the reason that it is immaterial, irrelevant, incompetent and as hearsay.

A. He was there locating parties, he said if anyone wanted to take up a claim there was a hundred dollars

(Testimony of Mrs. Lizzie A. Wells.)

and expenses in it, and I said I would like a claim, that was what conversation took place.

Q. Where did that conversation take place?

A. At our house.

Q. Did he say who he was working for?

Mr. WALSH.—We object to that question for the reason that it is irrelevant, immaterial and incompetent; and for the further reason that it is calling for hearsay evidence.

A. He certainly did.

Q. Did he say who he was working for?

A. Mr. Cobban.

Q. Before that time had Mr. Griswold, before this first conversation that you now refer to asking you to take up a claim for one hundred dollars for Mr. Cobban, you may state as to whether or not that report had come to you from various sources?

Mr. WALSH.—We object to this question for the reason that it is immaterial, irrelevant and incompetent and for the further reason that it calls for hearsay evidence.

A. It had; it was general conversation.

Q. It was general conversation? A. Yes, sir.

Q. What was the substance of that conversation?

Mr. WALSH.—We object to that question for the reason that it is immaterial, irrelevant and incompetent and for the further reason that it calls for hearsay evidence.

(Testimony of Mrs. Lizzie A. Wells.)

A. Well, a great many thought a good deal of a hundred dollars and their expenses, and thought they would take up a claim for a hundred dollars and expenses.

Q. You may state as to whether or not you know that Mr. Griswold, after your conversation with him when you said that you would like a claim acted on the understanding on his part that you wanted to take up a claim in the same way that the other claims were taken up under him?

Mr. WALSH.—We object to this question for the reason that it is leading and as calling for no fact from the witness, but merely her conclusion of what she saw or heard; and we object to the question upon the further ground that it is immaterial, irrelevant and incompetent.

A. He did.

Q. When did he find out, Mrs. Wells, that you were not acting under the proposition that he had made to you?

Mr. WALSH.—We object to this question for the reason that it is leading and as calling for no fact from the witness, but merely her conclusion of what she saw or heard; and we object to the question upon the further ground that it is immaterial, irrelevant and incompetent.

A. When we came to Helena for our final proof.

Q. State the facts and circumstances connected with that discovery on his part?

(Testimony of Mrs. Lizzie A. Wells.)

Mr. WALSH.—We object to this question for the reason that it is immaterial.

A. Mr. Griswold met us when we came to Helena; we had not had lunch or dinner; we went to the restaurant to get something to eat, and while we were eating he wanted to know how we were fixed financially; I said all right; he said he was very glad for he was broke; Mr. Wells asked him if he needed money and he said he did not have any.

Mr. BICKFORD.—We move to strike out all the foregoing answer of the witness upon the ground and for the reason that it is hearsay, and for the further reason that it is irrelevant and immaterial.

Q. The only thing I am asking you about is as to the result of the meeting here, was Mr. Griswold informed that you were going to pay the money yourself into the land office?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. No, sir.

Q. Did you pay the money into the land office, your own money?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. I did.

Q. And Mr. Griswold did not furnish it?

Mr. WALSH.—We object to this question for the reason that it is leading.

(Testimony of Mrs. Lizzie A. Wells.)

A. No, sir, Mr. Griswold never saw it.

Q. When do you say it was he found out he was not to furnish the money?

A. The 11th of October.

Q. Was that the day you made final proof?

A. We made proof the 12th.

Q. The next day? A. Yes, sir.

Q. Do you remember where you went after you made your final proof and got your receipt?

Mr. WALSH.—We object to this question for the reason that it assumes a fact as proven which has not been proven, namely, that final receipt was obtained.

A. We started home immediately.

Q. Where, to, Missoula?

A. Yes, sir, we went to Missoula.

Q. Did you get into the land office at an earlier hour than usual?

Mr. WALSH.—We object to this question because it assumes a fact as proven which has not been proven, namely, that final receipt was obtained; we object to the question further upon the ground that it is leading.

A. We did.

Q. You may state as to whether or not the money was then paid in?

Mr. WALSH.—We object to this question for the reason it is leading.

A. It was.

Q. Who obtained the final receipt? A. I did.

(Testimony of Mrs. Lizzie A. Wells.)

Q. You, yourself? A. Yes, sir.

Q. Do you remember who went with you?

A. Yes, sir.

Q. Who went?

A. Mr. Wells and Mr. Griswold.

Q. You may state, now, Mrs. Wells, if on your way home to Missoula in company with your husband and Mr. Griswold on the day named by you while on the train, you remember anything unusual occurring?

A. I do.

Q. What was it?

A. Mr. Griswold received a telegram while we were having lunch.

Q. From whom? A. Mr. Cobban.

Q. What was that telegram?

Mr. WALSH.—We object to this because the telegram itself is the best evidence.

Mr. MAYNARD.—Well, I will say that search has been made for the telegram and it has been destroyed, it cannot be found, and destroyed both.

A. The contents of the telegram is this: Not to furnish any money for the final proof for the Wells' claim until you have secured the claim.

Cross-examination.

(By Mr. WALSH.)

Q. Your husband was a witness in this case, was he, Mrs. Wells? A. He was.

(Testimony of Mrs. Lizzie A. Wells.)

Q. You live near Ovando? A. Yes, sir.

Q. How long have you lived there?

A. Sixteen years the sixth of May.

Q. How long have you been married?

A. Sixteen years, very near.

Q. Did you see Mr. Griswold intervening the time that you speak of that you made the remark that you wanted to take up a claim and the time you saw him in Helena? A. I did.

Q. Where did you see him?

A. At our home.

Q. When did you see him intervening that time?

A. Well, I saw him frequently while he was locating other parties.

Q. How far from your home is your claim?

A. It is about four miles and a half.

Q. Whom did Mr. Griswold locate near your place?

A. Near our place?

Q. Yes.

A. Miss Bryan was not a great ways from our place.

Q. Did he locate Miss Bryan? A. Yes, sir.

Q. Sure about that, are you?

A. Well, I was told so by her.

Q. That is all you know about it?

A. Yes, sir.

Q. Anybody else?

A. Well, I heard a great many, of course, I cannot positively say, they did not positively tell me.

(Testimony of Mrs. Lizzie A. Wells.)

Q. Mr. Griswold was up near your place pretty frequently? A. No.

Q. I understood you to say so?

A. He was there off and on all the time he was locating around in there.

Q. You made your location in August?

A. Yes, sir.

Q. Your proof in October?

A. I would not be positive about making our location in August.

Q. You spoke of seeing Mr. Griswold about that time, where did you see him frequently?

A. He made our place his headquarters, it was the only place he could stop.

Q. That is to say when he came into that locality for the purpose of locating people upon claims he stopped at your house? A. Yes, sir.

Q. Did you keep a stopping place there?

A. Yes, sir.

Q. Public house?

A. Yes, sir, we have a license out for keeping a public stopping place.

Q. I understood your husband to say he was engaged in the ranching business?

A. He was, we have one hundred and sixty acres there, homestead.

Q. Well, is this a regular roadhouse, a stopping place that you keep?

A. It was until they changed the road since then.

(Testimony of Mrs. Lizzie A. Wells.)

Q. Saloon operated in connection with it?

A. No, sir.

Q. And did you have any further conversation with Mr. Griswold between the time that you speak of when he talked to you about taking up a claim and the time you made proof?

A. That is general conversation whenever he was there with different ones locating.

Q. When did you see Mr. Griswold next after this meeting with him in Helena?

A. That I cannot tell.

Q. Where did you go with him?

A. We went as far as Missoula, then we went home.

Q. What did you go to Missoula for?

A. We left our team there.

Q. You do not go to Missoula, do you, to come from Ovando to Helena? A. We do.

Q. You do not mean to tell us that from Ovando to Helena the direct and usual route of travel is to go to Missoula, do you?

A. That is the way we always come.

Q. The way you always come? A. It is.

Q. Well, why didn't you go to Drummond?

A. Because the road is not nearly as good; we can make the road to Missoula a great deal quicker than we can to Drummond.

Q. Did Mr. Griswold go to Missoula with you?

A. Yes, sir.

Q. What was the occasion of his going to Missoula?

(Testimony of Mrs. Lizzie A. Wells.)

A. That I could not tell, unless he took the stage up the Blackfoot, or whether he stopped in Missoula I do not know.

Q. Did you leave Missoula the same day?

A. That we got in?

Q. Yes. A. No, sir.

Q. How long did you stay?

A. We stayed until the next day.

Q. Did you see Mr. Griswold the next day?

A. I did not.

Q. Who did you see in Missoula, anybody?

A. I don't know who I did see; I saw a great many.

Q. Did you see Mr. Cobban? A. No, sir.

Q. When did you next see Mr. Cobban?

A. I don't know that I ever seen him until now; did not see Mr. Cobban then.

Q. Didn't see him then? A. No, sir.

Q. You sold your land to him? A. I did.

Q. Who negotiated the sale?

A. Mr. Griswold.

Q. Mr. Griswold? A. Yes, sir.

Q. When did you see Mr. Griswold about it?

A. About three weeks afterwards.

Q. Where were you at the time?

A. At home

Q. What was Mr. Griswold doing there?

A. He came to see us about the land.

Q. Where were you when you made the deal?

A. We went to Missoula.

(Testimony of Mrs. Lizzie A. Wells.)

Q. Whom did you see there?

A. We saw Mr. Catlin and the other two parties; I don't remember their names.

Q. With whom did you have the negotiations in Missoula for the sale of your land?

A. We went to Mr. Griswold's office there and made them with the parties in the office.

Q. To Mr. Griswold's office?

A. To Mr. Cobban's office.

Q. Now, was that the first thing that Mr. Griswold had to do with your land?

A. That is all he had to do with it.

Q. Who went out with you at the time you selected your land? A. My husband.

Q. Who else? A. Not anyone.

Q. Who was your other witness besides your husband? A. Mr. Griswold.

Q. How did you come to get him?

A. Well, I put him on as one of the witnesses with the other three.

Q. Why did you do it?

A. He wanted to go on; he supposed I was going to take up the land the same as the rest did, but I did not intend to do it that way.

Q. How did he come to suppose that?

A. I suppose I gave him the idea.

Q. How did you give him the idea that you were going to do anything of the kind?

A. I just let him think so, because I told him I was

(Testimony of Mrs. Lizzie A. Wells.)

going to take up the land when he was telling how they were taking it up.

Q. What did you say that led him to think so?

A. I said I would like a piece of the timber land.

Q. What did he say? A. All right.

Q. Was that all? A. I think it was.

Q. That is all you know about it? A. Yes, sir.

Q. And from what you state here that you led Mr. Griswold to believe that you were going to take up this land like all the rest of the people?

A. Yes, sir.

Q. That is to say you led Mr. Griswold to believe, if I understand you right, that you were going to take up this land and get a hundred dollars on it?

A. And expenses.

Q. Well, how was Mr. Griswold interested in this?

A. He got so much out of it, I suppose.

Q. For what?

A. Mr. Cobban paid him so much percentage, I suppose; that is all I know about it.

Q. Well, what was he to get it for?

A. He was supposed to be taking it up for Mr. Cobban.

Q. Taking up what?

A. The land; and locating it.

Q. Well, what was Mr. Griswold to do for the purpose of earning from Mr. Cobban whatever sum Cobban was to pay him?

A. That I could not tell you.

(Testimony of Mrs. Lizzie A. Wells.)

Q. You don't know that he was to select out the land and estimate the amount of timber on it?

A. Yes, sir; he was to locate the parties on the land.

Q. And you led him to believe that he was locating you on the land? A. I did.

Q. When did Mr. Griswold estimate the amount of timber on your land? A. That I could not say.

Q. What did he tell you about it?

A. He said very little about it.

Q. Well, what little, whatever it was?

A. He said it was a good claim.

Q. When did he say that?

A. Well, I cannot give you the date, because I do not remember.

Q. I did not ask you for the date, but what was the occasion when that was said?

A. Well, sometime when he was locating others.

Q. How did he come to say that?

A. Mr. Wells asked him.

Q. What did Mr. Wells say to him?

A. He asked him how many thousand there was on the claim.

Q. What did he say?

A. He said it was a good claim; that is all he would tell him.

Q. When was that with reference to the time you located?

A. That was after I had proved up.

Q. I wish you would give us the conversation you

(Testimony of Mrs. Lizzie A. Wells.)

had with Mr. Griswold at the time he wanted you to locate; what did he say?

A. Well, the conversation was general; about the timber places we were going on; I said I would like a claim, and said all right I could take up a claim if I wanted to.

Q. Anything further?

A. I don't remember anything.

Q. That is the extent of it? A. Yes, sir.

Q. He told you where you could get a claim, didn't he? A. He did.

Q. What did he say about that?

A. He said there was good claims over there; we could go over there and look at them.

Q. Over where?

A. Across the river from where I lived, from our place.

Q. How soon after that, did you go?

A. Within a few days.

Q. Now, was that as correct a description as he gave you of the place, simply over there?

A. He told us what section it was in, the township and range.

Q. He told you that in a certain section, certain township and range over across the river there, you would find some good claims?

A. Yes, sir; good claims.

Q. Accordingly, you and Mr. Wells went over there?

A. Yes, sir.

(Testimony of Mrs. Lizzie A. Wells.)

Q. And looked at it? A. Yes, sir.

Q. And you came to Helena and made your filing?

A. Yes, sir.

Q. Subsequently, after you had made final proof, Mr. Griswold came to you to get you to convey this land to Mr. Cobban? A. Yes, sir.

Q. And you went with him to Missoula and conveyed the land to Mr. Cobban?

A. No, sir; we did not go with him to Missoula.

Q. Didn't you say so?

A. No, sir; that was not the question as I understood it.

Q. Who conducted the negotiations for the sale of the claim?

A. Mr. Griswold came to us to see about selling the claim.

Q. Did you agree on terms with him?

A. We did not.

Q. With whom did you agree on terms?

A. Mr. Catlin was one of the gentlemen, and I do not know who the other two that were in Mr. Cobban's office.

Q. What did you say to Mr. Catlin?

A. My husband did all the talking about the claim; that I cannot tell positively.

Q. You don't know; you did not conduct the negotiations yourself, then?

A. Whatever he said was all right.

Q. That is to say whatever he agreed to with refer-

(Testimony of Mrs. Lizzie A. Wells.)

ence to the sale of your claim was satisfactory to you?

A. It was, for I knew he would do nothing only what was right.

Q. And you were entirely satisfied to put the disposition of your claim in his hands? A. I was.

Q. Now, what was your occupation at the time you were married? A. Not any.

Q. How old were you at that time?

A. I was twenty-four years old.

Q. You were not engaged in any business or occupation at that time? A. No, sir.

Q. Where were you living?

A. With my father and mother.

Q. Where?

A. In Minnesota, in a little town called Dodge County.

Q. What means did you have of your own at that time?

A. My father lived on his income.

Q. What means did you have of your own?

A. I lived with my father and mother.

Q. Did you have any independent estate of your own? A. I did not then.

Q. What property do you now own in your own name?

A. Property back east that my father left me.

Q. Property back east that your father left you?

A. Yes, sir.

Q. What property did you own in 1899?

(Testimony of Mrs. Lizzie A. Wells.)

A. Property that he left me.

Q. Where is that property?

A. In Minnesota.

Q. What revenue do you get from it?

A. Somewheres near about five hundred dollars a year; I can draw on the principal if I want to.

Q. What money of your own did you have in the month of August, 1899?

A. I had a thousand dollars that was sent me from home.

Q. Where did you have it?

A. I got it from the bank at Kasson; it was a draft.

Q. Was that the money that you used in payment for this land? A. It was.

Q. And your husband's also? A. Yes, sir.

Q. So that your husband got his money from you?

A. Yes, sir.

Q. So that your husband, so far as he had money to pay for this land, he borrowed it from you?

A. I gave it to him.

Q. You gave it to him?

A. I consider what is mine is my husband's.

Q. Now, where did you get this draft cashed; if you did get it cashed?

A. At the Western National Bank, Missoula.

Q. Did you have an account there?

A. We did.

Q. And you turned that into the account?

A. Yes, sir.

(Testimony of Mrs. Lizzie A. Wells.)

Q. In what shape did you bring the money to Helena?

A. We got it in money; got it in money.

Q. You drew the cash? A. Yes, sir.

Q. And carried the cash here, did you?

A. Yes, sir; I did.

Q. From Missoula? A. From Missoula.

Q. Now what property do you or your husband own in the neighborhood of Ovando?

A. We have four hundred acres around there, and a homestead.

Q. What encumbrance, if any, is there on it?

A. There is a mortgage on the railroad land.

Q. For what amount?

A. For eighteen hundred dollars.

Q. To whom?

A. To Mr. Piggott I think his name is; here in Helena.

Q. Mr. Piggott here, in Helena? A. Yes, sir.

Q. When was that mortgage put upon that land?

A. Last summer.

Q. What encumbrance was there upon the land prior to that time?

A. Not any; it was not paid for until then.

Q. Have you proved up on your homestead?

A. Yes, sir.

Q. What encumbrance, if any, is there on that?

A. Not any.

Q. What other real estate have you, if any?

A. Not any in this state.

(Testimony of Mrs. Lizzie A. Wells.)

Q. Have you ever had any business transaction of any character with the Blackfoot Milling Company?

A. Yes, sir.

Q. Of what character?

A. My husband furnished beef a great many years for them.

Q. While he was a butcher? A. Yes, sir.

Q. Sold beef to them at the camp? A. He did.

Q. Anything else?

A. Well, they loaned us money off and on all the time we were doing business whenever we settled up in the spring we settled up for the money.

Q. The Blackfoot Milling Company loaned you money? Q. Yes, sir.

Q. Were you doing business with them in the year 1899? A. We were.

Q. What time?

A. We borrowed money once to buy beef and to go on with our business.

Q. You borrowed money to buy beef and to go on with your business? A. Yes, sir.

*Q. 1. What final proof?

A. On our timber claims.

*Q. 2. Once for the final proof? A. Yes, sir.

*Q. 3. How long after? A. Three or four days?

*Q. 4. Three or four days after the final proof?

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*Witness states on reading her testimony she did not understand these questions marked 1, 2, 3, 4.—H. N. BLAKE, Examiner.

(Testimony of Mrs. Lizzie A. Wells.)

A. Yes, sir.

Q. You borrowed some money from the Blackfoot Milling Company? A. We did.

Mr. MAYNARD.—Did you say three or four days or three of four weeks? A. Three or four days.

(Mr. WALSH.)

Q. How much?

A. Borrowed about a thousand dollars.

Q. Just about the same amount as this draft?

A. Yes, sir, that draft was intended to go on with our business, that is why we borrowed the money.

Q. What was that?

A. The draft was intended to go on with our business, we had, of course, to have money to go on with and to replace it.

Q. Now, how long before you made this final proof on your claim did you get this draft from Minnesota?

A. Well it was not a great while, because I sent for it to make the final proof with.

Q. When did you deposit it?

A. Well, that I don't know, my husband brought it down when he came down one time, that I cannot remember.

Q. Have you got your bank-book with you?

A. I have not.

Q. That would show?

A. That would show, yes sir.

Q. But anyway you borrowed from the Blackfoot Milling Company? A. We did.

(Testimony of Mrs. Lizzie A. Wells.)

Q. Identically the same amount as this draft which you got from the east? A. Yes, sir.

Q. And you gave the Blackfoot Milling Company a mortgage upon these timber claims within a few days after you made final proof upon them didn't you?

A. We did.

Q. To secure the sum of one thousand dollars?

A. Yes, sir.

Q. The land cost you four hundred dollars apiece in the land office? A. It did.

Q. And ten, eleven or twelve dollars land office fees?

A. Yes, sir.

Q. Together with about ten or fifteen dollars for advertising? A. Yes, sir.

Q. And your expenses making two trips to Ovando here for yourself, your husband and your witnesses?

A. Yes, sir.

Q. Have you ever figured up just about how much this land cost you, Mrs. Wells?

A. No, I never did, for we do not keep account of any expenses when we are away from home.

Q. If you would go to work and figure it now it would make about five hundred dollars a claim?

A. I think it would make more than that.

Q. Well, we can count up then; four hundred dollars we will say for the land and eleven dollars for land office fees would make four hundred and eleven dollars, and ten dollars for advertising would make four hundred and twenty-one dollars, which would leave you

(Testimony of Mrs. Lizzie A. Wells.)

seventy-nine dollars for expenses for two trips. Did you have any other expenses in connection with this land than those I have mentioned; for instance did you pay Mr. Griswold anything? A. No, sir.

Q. Did you have any other expenses?

A. Not that I remember.

Q. Well, do you think that seventy-nine dollars would cover the expenses in each case of two trips to Helena? A. I don't know, I am sure.

Q. What is it? A. I don't know.

Q. I don't know of anyone that ought to know better; do you know about what it costs to make the trip from your home to Helena, don't you?

A. Why, what the actual cost is I could tell you.

Q. And what is the actual cost?

A. Our expenses from Missoula and our expenses to Missoula from our place would be all the actual expenses of course.

A. I am speaking about the actual expenses; seventy-nine dollars would cover the actual expenses of two trips would it not? A. It ought to.

Q. It would take probably nearly or quite all?

A. Yes, sir.

Q. So I wish you would answer my question now then, Mrs. Wells, if it is not a fact that each of these claims cost you substantially five hundred dollars apiece? A. Yes, sir.

Q. And within two or three days after you made final proof upon the land you gave a mortgage to the

(Testimony of Mrs. Lizzie A. Wells.)

Blackfoot Milling Company for a thousand dollars, substantially the amount these two claims cost you?

A. Yes, sir.

Q. Now, Mrs. Wells, did you ever have any other business transactions with Mr. Griswold than the matter of his stopping over at your house, at your stopping place, but his pointing out where you could get these timber claims?

A. Well, we often sold him beef when he was in the hotel there at Clearwater.

Q. Anything else?

A. That is all that I know of.

Q. Did you ever borrow any money of him or loan any to him? A. No sir.

Q. Quite sure of that? A. Yes, sir.

Q. What was Mr. Griswold doing here in Helena at the time you made your final proof?

A. He was witnessing for other parties.

Q. When did your husband prove up with reference to the time that you proved up?

A. He proved up in August, but the date I cannot tell.

Q. And you in October? A. Yes, sir.

Q. What was the date that you proved up?

A. 12th of October.

Q. Now, I wish you would get a little more accurately at the matter of the expenses, if you can tell us about that Mrs. Wells, or did you intrust that matter to your husband?

(Testimony of Mrs. Lizzie A. Wells.)

A. Why, he bought the tickets always, that I could not say of course I know what my ticket was this time.

Q. In fact he handled the financial part of it from the beginning to the end?

A. He did, he always does, I never bother myself with anything of that kind unless I have to.

Q. You drove to Missoula with your team I presume?

A. We did.

Q. You stayed over night in Missoula?

A. We did.

Q. Came to Helena the next day? A. Yes, sir.

Q. And the next day following you made your proof, got out that day and back to Missoula?

A. Yes, sir.

Q. Stayed over night in Missoula and went back to Ovandao the next day? A. Yes, sir.

Q. Now, in addition to the items that I spoke of, the price of the land, the land office fees and advertising, and your traveling expenses can you recall any other expenses of any character that you had?

A. Well, we always spent more or less money, of course, when we came to town.

Q. I don't want to inquire into your private affairs, but I want to know if you had any other expenses in connection with the acquisition of this land?

A. I don't remember of any.

Q. You think that is all? A. Yes, sir.

Q. When did you see Mr. Griswold next before the

(Testimony of Mrs. Lizzie A. Wells.)

time you came here for the purpose of making your final proof?

A. The last before I came here?

Q. Yes.

A. Well, I can't tell exactly, I could if we had our books, exactly the time; I think about three weeks before we came.

Q. Do you remember if you paid any money to Mr. Griswold in connection with this matter from beginning to end? A. No, sir.

Q. Well, did Mr. Griswold come clear down here from his place and pay his own expenses down here as a mere matter of accommodation to you to make your final proofs? A. He was here.

Q. How do you know he was here?

A. He wrote to us.

Q. Have you got that letter?

A. I have not; but I think my husband has.

Q. Wrote you that he was going to be here?

A. He wrote my husband that he would be; we knew by the paper that he would be here.

Q. You knew by the paper that he would be here?

A. Yes, sir.

Q. How did you know?

A. We got the paper with the final proofs in saying who he was going to witness.

Q. How did you know he would be here with any other proof any more than he would be here on your proof? A. Because he generally was.

(Testimony of Mrs. Lizzie A. Wells.)

Q. Generally was? A. Yes, sir.

Q. Then you consider that the bare fact that Mr. Griswold's name was upon your final papers would be sufficient to insure his presence here at the time you were going to make your final proof?

A. We were not sure.

Q. Did you know any good reason why Mr. Griswold would be here with anybody else's proof anymore than your own proof? A. Yes, sir.

Q. What was that reason? A. He told us.

Q. When did he tell you?

A. I told you he wrote to my husband.

Q. What arrangements, if any, did you make about paying Mr. Griswold his fees and expenses for being present at the time of making your final proof?

A. Did not pay him any expenses, he was already here, he was under no expense.

Q. He was under some expense to somebody, wasn't he? A. He got his pay.

Q. Sure about that? A. I think so.

Q. You didn't pay him however?

A. No, sir; we paid his actual expenses, and hotel bills.

Q. When did you pay them?

A. My husband settled when he settled for himself.

Q. Are you sure he paid Mr. Griswold?

A. I am.

Q. How are you sure, were you present at the time he paid him? A. Our books show it.

(Testimony of Mrs. Lizzie A. Wells.)

Q. Our books show it? A. Yes.

Q. Now, Mrs. Wells, I asked you very distinctly about that a few minutes ago, you remember don't you?

A. I thought you asked me if he paid Mr. Griswold anything.

Q. You understood me very distinctly didn't you, as inquiring just exactly what expenses you were to in acquiring this land, we were figuring up that it was not to exceed five hundred dollars, we figured your expenses here and your husband's here, and you told me, didn't you, that that was all you had paid?

A. Possibly I did, but if I did I did not understand your question.

Q. You did not understand that question?

A. No, sir.

Q. You desire to have it understood now that you paid Mr. Griswold's expenses?

A. We paid his hotel bill.

Q. Now, when were you in Helena next proceding this time when you made your final proof?

A. It was two years ago the first day of April.

Q. That is April, 1899, you were here on the time next preceding the time when you made your final proof?

A. 1900.

Q. That was after you made your final proof?

A. Yes, sir.

Q. I asked you next preceding?

A. Well, before when I came here to file.

Q. When was that?

(Testimony of Mrs. Lizzie A. Wells.)

A. That was in August sometime, I cannot tell.

Q. Was that the time next preceding that you were here? A. Yes, sir.

Q. And when next preceding that time?

A. When I came over with my husband to make final proof.

Q. Next preceding the time that you filed, Mrs. Wells? A. When we came over to prove up.

Q. Preceding, not succeeding, next before the time that you filed?

A. When my husband came over to prove up.

Q. Did you husband prove up before you filed?

A. Yes, sir.

Q. How long before?

A. Well, I can't tell you exactly how long before.

Q. You don't know about that?

A. No, sir, I could tell if I thought of it, I have all the dates down.

Q. Well, who did you say came with you at the time you made the filing?

A. Mr. Griswold came with me, Mr. Gilles, and there were several others on the train coming to file at the same time.

Q. Mr. Griswold and Mr. Gilles, and several others?

A. Yes, those were the only ones that I know of.

Q. You have as I understood at the time testified to some conversation with Mr. Griswold in which you said to him you would like to take a claim and he said all right, and he told you you could find a good claim over

(Testimony of Mrs. Lizzie A. Wells.)

in section so and so, the township and range, giving the township and range? A. Yes, sir.

Q. As I understood you, you led him to believe from that time on that you would take up a claim just the same as all the rest of them? A. Yes, sir.

Q. Did you make any promise or agreement with Mr. Griswold that you were going to convey this land to anybody after you took it up? A. No, sir.

Q. Sure about that? A. Yes, sir.

Q. Well, at that time where did you expect to get the money to pay for this claim?

A. We had had it from home.

Q. What was your object in leading him to believe you were going to take up this claim the same as all the rest of them?

A. I did not want to take it up with the money he offered.

Q. Why did you deceive him into the belief that you were going to take up a claim just the same as all the rest of them?

A. I don't know what my object was, I am sure.

Q. You don't know what your object was?

A. No, sir.

Q. You are not given to habitual deception of people, are you? A. No, sir.

Q. You don't know any reason why you departed from your usual custom in this particular instance?

A. I wanted the claim for our own purposes, for our own benefit.

(Testimony of Mrs. Lizzie A. Wells.)

Q. You understand the question, don't you, Mrs. Wells? A. Yes, sir.

Q. The question is why did you attempt to deceive Mr. Griswold into the belief that you were going to take up this claim the same as all the rest of them, and why didn't you state to him that you would not take up a claim under such circumstances at all?

A. Well, when I took up the claim I wanted it for myself, I wanted to get one.

Q. Yes, I understand that fully, but why didn't you say so to Mr. Griswold?

A. He did not ask me, I suppose.

Q. Why, did you lead him to believe you were going to take up a claim the same as all the rest of them?

A. I don't know.

Q. If you did not have that purpose you don't know?

A. No.

Q. That is all the explanation that you can give about that, is it? A. Yes, sir.

Q. Well, now, did Mr. Griswold ever at any time ask you to promise or agree beforehand to convey this claim to Mr. Cobban or anybody else? A. No, sir.

Q. Was there anything of that kind said in the course of the conversation he had with you?

A. No such supposition.

Q. I was not asking you about any of your suppositions, I was asking you whether he said so or not, did he, Mrs. Wells?

A. I don't think he did.

(Testimony of Mrs. Lizzie A. Wells.)

Q. You did not agree to.

A. I did not agree to.

Q. He did not ask you to agree to do it?

A. No, sir.

Q. Now, when Mr. Griswold met you here in Helena he asked you how you were fixed financially?

A. Yes, sir.

Q. That was the substance of the conversation you had with him about that matter? A. Yes, sir.

Q. You said you were fixed all right?

A. Yes, sir.

Q. He said that he was broke? A. Yes, sir.

Q. That was by way of a joke, wasn't it?

A. Yes, sir, I suppose so.

Q. You understood it so at the time?

A. Yes, sir.

Q. Well, what would you understand by the other suggestion or question that he asked you?

A. I supposed he wanted us to furnish our own money instead of being furnished by him.

Q. Was that your answer to that question?

A. Yes, sir.

Q. That is to say, you understood from the question Mr. Griswold asked you that he desired to intimate to you that if you had money with which to make the payment upon your own land he would be glad to have you use this money instead of calling upon him for it?

A. Well, I should judge so.

Q. In other words, you understood that Mr. Griswold

(Testimony of Mrs. Lizzie A. Wells.)

was acting under the belief that you saw you led him to believe that you would want to borrow the money from him at the time you made final proof or have him get it for you? A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. And he desired as I understand you at that time as you understood him, to convey to you the impression that if you could use your own money and relieve him from the obligation of furnishing the money to you it would suit him, because he did not have the money, is that your idea?

A. I should judge that was it.

Q. Now, how much timber was there on your claim?

A. I had it estimated by several different estimators; they said there was twelve hundred thousand.

Q. Who said so? A. Mr. Vogel for one.

Q. When did Mr. Vogel estimate it?

A. He estimated it that fall, in September sometime.

Q. That was prior to the time you made final proof upon it? A. Yes, sir.

Q. Mr. Vogel at that time was manager for the Blackfoot Milling Company?

A. I think he was working then for the Northern Pacific.

Q. Are you sure of that?

A. I am not sure, but I think he had not commenced to work for the Blackfoot Milling Company at the time.

Q. When did he commence to work for the Blackfoot Milling Company?

(Testimony of Mrs. Lizzie A. Wells.)

A. That I can't tell you for I don't know.

Q. He was working for the Blackfoot Milling Company that fall, wasn't he?

A. That I don't know.

Q. Well, you do know that he was connected with the Blackfoot Milling Company, don't you, Mrs. Wells?

A. I could not say positively.

Q. Oh, no, I dare say you cannot say positively he was connected with the Northern Pacific, can you?

A. No, but when he estimated my claim he was working for the Northern Pacific.

Q. You are sure about that?

A. Yes, sir, that is if his words was good for anything.

Q. Now, do you know that the Northern Pacific Company had any timber in that neighborhood at that time at all? A. Yes, sir.

Q. You are sure they had? A. Yes, sir.

Q. Don't you know as a matter of fact that they had conveyed it all at that time to the Washoe Lumber Company?

A. Not until it was estimated.

Q. Not until it was estimated?

A. No, sir, the estimators are in there now, they were in there then across the river, now, they are at our place estimating.

Q. The Northern Pacific estimators?

A. Yes, sir.

Q. You don't know, then, as a matter of fact that the

(Testimony of Mrs. Lizzie A. Wells.)

Northern Pacific does not own a foot of timber in that country, but that it is all conveyed to the Washoe Lumber Company in the summer of 1899?

A. Not until it was estimated.

Q. You mean by that the price has not been paid by the Northern Pacific Company?

A. I mean by that they got to estimate the timber before the company accepts it.

Q. How did Mr. Vogel come to estimate that timber?

A. Mr. Wells paid him for it.

Q. How much did he pay him?

A. That I cannot tell you.

Q. How do you know he paid him?

A. Because he told him he would pay him if he would go and estimate it for him?

Q. Who else estimated it? A. Mr. Beebe.

Q. Who is Mr. Beebe?

A. He was then working for the Northern Pacific.

Q. With Mr. Vogel.

A. He was in a different camp from Mr. Vogel.

Q. Doing the same character of work?

A. Yes, sir.

Q. How did Mr. Beebe come to estimate it?

A. Mr. Wells asked him to.

Q. Who else estimated it? A. Mr. Kilbourn.

Q. How did Mr. Kilbourn come to estimate it?

A. Mr. Wells asked him to.

Q. When did Mr. Kilbourn estimate it?

A. Well, that I cannot tell you.

(Testimony of Mrs. Lizzie A. Wells.)

Q. Was it before or after your final proof?

A. It was after our final proof.

Q. How long after?

A. Well, perhaps a week or ten days, I cannot tell exactly.

Q. What conversation did you have with Mr. Griswold when he came up there to buy the claim?

A. He offered us a thousand dollars for the two claims and we would not accept it.

Q. That is the extent of the talk?

A. That was about all there was to it then.

Q. When was that?

A. Well, I should say that was about two weeks perhaps, perhaps not that long after we had proved up.

Q. After you had proved up?

A. Yes, sir, after I had proved up.

Q. And what was the next talk you had with him?

A. Oh, he went down to Missoula.

Q. Well, you told us that was the only talk you had with Mr. Griswold, then what other time did you ever talk with Mr. Griswold about buying the land?

A. When we went down to Missoula?

Q. Didn't you tell me Mr. Griswold didn't go to Missoula with you?

A. He did not go to Missoula with us.

Q. Did you see him when you got there?

A. Yes, sir.

Q. What talk did you have with him then?

A. He wanted the claims.

(Testimony of Mrs. Lizzie A. Wells.)

Q. Where did you see him?

A. We saw him at the Missoula House.

Q. Was that before or after you saw Mr. Catlin?

A. That was before we saw Mr. Catlin.

Q. What talk did you have with him then?

A. Well, he wanted the claims, told us what he would give for them.

Q. What did he say?

A. Well, he offered us a thousand dollars and Mr. Wells would not accept it, he went and talked with Mr. Catlin and other parties in the office.

Q. Was that all the talk you had with Mr. Griswold?

A. Yes, sir.

Q. Nothing further with Mr. Griswold?

A. Oh, his wife and his mother came and talked with us and wanted us to sell the claim, said that if we did not Mr. Griswold would lose his position, Mr. Wells felt sorry for them, then he went and talked to the other parties and we sold the claims.

Q. With whom did you carry on negotiations?

A. With Mr. Catlin and the other two parties.

Q. What was the talk you had with Mr. Catlin?

A. I cannot say, he was the only one I knew in the office; Mr. Wells did the talking, I was not there until they negotiated for the claim.

Q. What did you sell them for?

A. Got about seventeen hundred dollars for them.

Q. How much did you get for yours?

A. We sold the two together, divided up the money.

(Testimony of Mrs. Lizzie A. Wells.)

Q. There was no fixed price upon yours at all?

A. We put the two in together for so much.

Q. No agreement as to how much you were to get for your claim, nor how much was to be gotten for the other claims? A. No, sir.

Q. You got how much?

A. About seventeen hundred dollars.

Q. Why do you say "about"?

A. I think it was a little over, how much I cannot tell you.

Q. Why not?

A. Because I don't know, I don't remember?

Q. Don't remember?

A. No, sir.

Q. How did you get this?

A. We got it in a check.

Q. The check will show what you got, I suppose?

A. Yes, sir.

Q. But you don't know what it was?

A. I don't.

Q. You say the negotiations for the sale of these claims was conducted by your husband and Mr. Catlin?

A. I could not say whether it was Mr. Catlin or the other two parties; I don't know the names of the other two that were in the office.

Q. What did you take this claim up for anyway?

A. For the purpose of logging it ourselves or not exactly logging, there is a piece adjoining us we intended to

(Testimony of Mrs. Lizzie A. Wells.)

trade for if we could get to logging that ourselves and selling the timber.

Q. Place adjoining you where?

A. Our homestead.

Q. Who owns the place adjoining you?

A. Some Wisconsin parties.

Q. What negotiations, if any, did you have with them for the trading of these two pieces?

A. Mr. Wells had just written to find out how he could trade, we had made no negotiations.

Q. Did you get an answer? A. We did.

Q. Have you got that? A. I think we have.

Q. You have not got that here? A. No.

Q. When was this letter written?

A. I cannot tell you the date.

Q. Well, with reference to the time you made your filing? A. It was soon after the final proof.

Q. Well, you had already taken up the claim and proved up on it at the time you wrote to find out whether you could trade or not?

A. We certainly had.

Q. So you didn't know anything about whether you could or could not trade at the time you filed?

A. No, sir.

Q. Before either of you filed or took up this land?

A. No, sir.

Q. And as a matter of fact you did not trade?

A. No, sir; we did not trade, they were in good loca-

(Testimony of Mrs. Lizzie A. Wells.)

tions, both of them, anyway, for what purposes for what we wanted them for if we did not trade.

Q. To whom did you write about this matter?

A. To a Mr. Millard, what his first name is I cannot tell you now; we have it at home and his address.

Q. At what place? A. That I cannot tell you.

Q. Don't know that either?

A. No, sir; I did not do the writing, my husband did it.

Q. But you got an answer from him?

A. Yes, sir.

Q. How long did you get the answer prior to the time you sold to Mr. Cobban?

A. Well, that I cannot tell you.

Q. Did you get an answer before the time you sold to Mr. Cobban? A. Yes, sir.

Q. You have not any sort of an idea, where this man Millard lives, where you addressed the letter to?

A. He is in some part of Wisconsin, that I can tell you.

Q. Who gave you the address?

A. We had it ourselves.

Q. You had it yourselves?

A. Yes, sir; we had sold our timber on our homestead to him.

Q. You had sold your timber, on your homestead to him? A. Yes, sir.

Q. When did you sell that timber to him?

A. About five years before.

(Testimony of Mrs. Lizzie A. Wells.)

Q. Would you be willing to send this letter received from Mr. Millard to the Master, Judge Blake?

A. I would if we have it.

Q. Did you ever see this man Millard? A. I did.

Q. When did you last see him?

A. When we sold the timber on the homestead to him.

Q. Have not seen him since? A. No, sir.

Q. You did not see him at your place during this summer that you speak of, 1899? A. No, sir.

Q. Did you have any talk with Mr. Griswold about selling this claim of yours any time prior to the time he came to your house two or three weeks after you made final proof?

A. When he came to our house was the first time we had any conversation concerning it.

Q. You are sure about that?

A. He might have asked if we wanted to sell it; that I could not say positively, or if we would sell it, or was going to sell it.

Q. How far away from your place is this claim that you took up?

A. About four miles and a half.

Q. Where does your husband's lie with reference to it?

A. His lays closer to Ovando.

Q. How far from yours?

A. About eight or nine miles.

Q. About eight or nine miles from yours?

A. Yes, sir.

(Testimony of Mrs. Lizzie A. Wells.)

Q. What timber adjacent to your farm does Millard own?

A. Well, he owns a lot of it in around there, claims that have been taken up.

Q. The question was what timber adjacent to your farm does he own?

A. He owns a half-section adjoining us.

Q. Which way? A. On the north.

Q. From whom did he acquire it?

A. Well, I think one of the claims, though I won't be positive, he bought of Mr. Faust.

Q. Have these claims been logged?

A. No, sir.

Q. No timber cut on them? A. No, sir.

Q. Where were you, you say, when Mr. Griswold got this telegram?

A. We were on the train just after we went through Elliston.

Q. When you were going home? A. Yes, sir.

Q. What were you doing, you say, at the time it came?

A. We were having lunch.

Q. How did you know of the receipt of it?

A. Why, he was right across the table from us.

Q. Right across the table from you, at the table in the dining car? A. Yes, sir.

Q. You and he and your husband were at lunch together? A. Yes, sir.

Q. Well, were you and Mr. Griswold on friendly terms at that time? A. We were on friendly terms.

(Testimony of Mrs. Lizzie A. Wells.)

Q. There was not any ill-feeling existing between you at time? A. No, sir.

Q. Just the least little bit, Mrs. Wells?

A. Not the least bit, never has been that I know of.

Q. You feel sure about that? A. Yes, sir.

Q. Mr. Griswold ever take meals with you before that time?

A. Yes; we often went to lunch or dinner together in Missoula, himself and wife and my husband and I.

Q. When?

A. He was boarding there at the Missoula House, and whenever we went there he always went and ate with us.

Q. This same man that tried to get you to commit perjury?

A. He did not think for a moment that I would ever commit perjury.

Q. I show you this paper, Mrs. Wells?

A. I do not ever remember of seeing that writing.

Q. I will ask you if that is your signature?

A. That is my signature, but I never remember of seeing that writing before.

Q. When did you get the thirty-five dollars?

A. I never received any thirty-five dollars.

Q. Mr. Griswold stayed at your house frequently, you say? A. Yes, sir.

Q. Do you keep a register there?

A. No, sir; it is nothing but just a road house.

Q. Did you ever see him write?

A. I have seen his writing; yes, sir.

(Testimony of Mrs. Lizzie A. Wells.)

Q. I will ask you to tell us whose writing that is on that paper. A. No, sir; I cannot.

Q. Anyway it is your signature, isn't it?

A. It looks like my signature; how it came there, I could not say.

Q. Now, Mrs. Wells, I wish you would tell us is it a forgery?

A. That I cannot tell you because I never signed that.

Q. You never signed that?

A. I did not; if I ever signed the paper it did not have that writing to it.

Q. Just look at the signature carefully.

Mr. MAYNARD.—That is just what she says, that is her signature, but it was not to that paper.

A. That is what I said; I said I never did sign any such writing.

Q. You said a few minutes ago that you did.

A. That I signed that?

Q. Didn't you state a few minutes ago that was your signature?

A. I said that was my signature, but that writing never was on there; that is surely not my signature to that.

Q. Well, it looks as if you did, doesn't it?

A. That is my writing, my signature, but if I ever signed that paper that writing was not on there.

Mr. WALSH.—We offer this exhibit in evidence, your Honor, as part of the cross-examination.

Thereupon the paper was introduced in evidence and

(Testimony of Mrs. Lizzie A. Wells.)

marked by the Examiner "Defendant's Exhibit No. 201, Henry N. Blake, Examiner," and is as follows:

"Rec'd from C. L. Griswold $35.00 to apply on loan Helena, Aug. 2d, 1899. LIZZIE WELLS."

I do hereby certify that I have compared the above exhibit with the original, and that the same has been correctly copied.

HENRY N. BLAKE,
Examiner.

_____,
Witness.

Subscribed and sworn to before me this —— day of March, A. D. 1902.

_____,
Examiner.

Wednesday, March 26th, 1902, Two o'clock P. M.

Hearing resumed pursuant to adjournment.

Mrs. LIZZIE T. WELLS, was recalled for further examination.

Redirect Examination.

(By Mr. MAYNARD.)

Q. Mrs. Wells, counsel spent an hour and three-quarters in your cross-examination and I just asked you three or four questions that were brought out on that cross-examination, and I want to see if I understood you correctly. Now, did you say to my brother Walsh that the thousand dollars which you paid for these claims, you and your husband, you received from Minnesota?

(Testimony of Mrs. Lizzie A. Wells.)

By Mr. WALSH.—We object to that upon the ground that it is leading.

A. Yes, sir.

Q. And that you had intended to use that thousand dollars when it was coming from Minnesota in your business—you and your husband's business?

A. Yes, sir.

Q. Now, will you please state just what that business was?

A. He was killing beef for the Blackfoot Milling Company.

Q. He was what?

A. He was furnishing beef for the Blackfoot Milling Company.

Q. Did your husband have a number of contracts at that time?

By Mr. WALSH.—We object to that as leading.

A. Yes, sir.

Q. And was your husband supplying the camp with meat? A. He was; yes, sir.

Q. Now, you may state whether or not, in the filling of those contracts, and in his dealings with the Blackfoot Milling Company he had occasion to borrow money?

By Mr. WALSH.—We object to that as leading.

A. He did.

Q. How many times to your knowledge?

A. Three.

Q. And in what sums?

A. Once, I believe, it was five hundred dollars and another seven hundred dollars and another a thousand.

(Testimony of Mrs. Lizzie A. Wells.)

Q. And those loans that he secured from the Blackfoot Milling Company were for what purpose?

A. To use in buying stock for his business.

Q. And in supplying these meats to the Blackfoot Company? A. Yes, sir.

Q. For the logging camp?

A. Yes, sir; for the logging camp.

Q. And do I understand you, that it was secured on any land that you had? A. Yes, sir.

Q. On what? A. On the homestead.

Q. And was that paid?

By Mr. WALSH.—We object to that as being leading.

A. It was paid; yes, sir.

Q. And the mortgages canceled and destroyed?

By Mr. WALSH.—We object to that as being leading.

A. Yes, sir.

Q. Then this fourth time, as I understand it, instead of giving a mortgage on your homestead, you gave it on this claim—these entries that you have entered and paid for as you have stated.

By Mr. WALSH.—We object to that as being leading.

A. Yes, sir.

Q. Did you give a mortgage on them?

A. We did.

Q. And when you sold to Mr. Cobban, what did you do then?

A. We paid the mortgage, and got the release.

Q. Well, now then, just state, please, particularly just

(Testimony of Mrs. Lizzie A. Wells.)

why you felt you should use the $1,000.00 which was received from Minnesota for the purpose of buying timber claims, rather than using it for the purpose you intended to use it for?

A. Well, we knew we could get the money of the company, and we concluded to keep the claims—we wanted the claims.

Q. For what purpose did you want the claims?

A. For our own use, to saw lumber up and sell it.

Q. And I suppose a chance to make some money which it appears from the testimony that you gave in answer to my brother Walsh, you did make? A. Yes, sir.

Q. Now, then, I desire to call your attention again to this point. You said that after you had bought your land and paid for it that Mr. Griswold came to your house, and wanted to buy the claims for $1000.00.

By Mr. WALSH.—We object to that also as leading.

A. Yes, sir.

Q. Now, will you please state the facts and circumstances connected with that proposition which was made to you at that time by Mr. Griswold.

A. He came up there with his wife, and he wanted a claim. He said that if he didn't get them he would lose his job, as Mr. Cobban said they were two of the best claims on the Blackfoot river, and he offered us—

Q. What did he do?

A. He offered us $1,000.00 which we refused to do. We refused to take it.

Q. What shape was that $1,000.00 in?

(Testimony of Mrs. Lizzie A. Wells.)

A. In a check.

Q. Did you see the check yourself?

A. I did, yes, sir.

Q. What was it?

By Mr. BICKFORD.—We object to that for the reason that the check itself is the best evidence.

A. It was written by Mr. Cobban.

Q. Written by Mr. Cobban? A. Yes, sir.

Q. And for what amount?

A. For one thousand dollars.

Q. And payable to whose order was it?

By Mr. BICKFORD.—We object to that for the reason that the check itself is the best evidence.

A. Mr. L. A. Wells.

Q. What did Mr. Griswold do with the check?

A. Oh, he had it in his pocket.

Q. You refused to accept it, did you?

A. We did.

Q. You may state as to whether or not, a day or two afterwards you and your husband were in the city of Missoula? A. We were, yes, sir.

Q. Did you go there on your own business, or did you go there by request, or on an appointment that you had made with Mr. Griswold?

A. Partly on an appointment and partly on our own business.

Q. Did you see Mr. and Mrs. Griswold there?

A. We did.

(Testimony of Mrs. Lizzie A. Wells.)

Q. And Mr. Griswold's mother?

A. We did.

Q. You may state as to whether or not anything was said to you by them again relative to your selling your claims to Mr. Cobban? A. There was.

Q. What was that?

A. Both Mr. Griswold and his mother said that if we didn't sell the claims, Chauncey would lose his job. We felt sorry for them and we sold our claims. Felt sorry for the old lady especially. She was the one that had the most of our sympathy.

Q. Now, my brother Walsh asked you on his cross-examination as to why, when you wanted this good piece of timber, that you led Mr. Griswold to believe that you had accepted his offer to take it up in behalf of Mr. Cobban, and to take a hundred dollars?

By Mr. WALSH.—We object to this as assuming a fact which the witness has never testified to in any way, shape or form, namely, that Mr. Griswold—that she was to convey the claim to Mr. Cobban.

By Mr. MAYNARD.—The answer to that was that she knew all over the neighborhood just exactly how Mr. Griswold was taking up these claims.

By Mr. WALSH.—We move to strike out the statement of the counsel as indicating to the witness what her answer should be, and we also move to strike out the statement of the witness as not being responsive.

Q. What I asked you, Mrs. Wells, is, Mr. Walsh

(Testimony of Mrs. Lizzie A. Wells.)

called your attention on cross-examination, to the question, or to the fact that you led Mr. Griswold to believe that you were taking up the claim in the same way, and for the same purpose that the other men and women that you have referred to in your testimony were taking up their claims, and you said you did. Now, I ask you the question again, what the reason of that was?

A. Well, they were getting away with all the good claims, and I wanted one of them.

Q. You may state as to whether or not you knew at the time that you told Mr. Griswold that you wouldn't take a hundred dollars and expenses for your claim, that there might be trouble on your part in carrying your claim through.

By Mr. WALSH.—We object to that for the reason that it is leading and calling for no facts from the witness, and it is irrelevant, incompetent and immaterial.

A. I did not.

Q. Now, Mrs. Wells, all that neighborhood was engaged in working for Mr. Griswold in locating people on these claims.

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial.

A. Mr. Jakways claimed to.

By Mr. WALSH.—We now move to strike out the answer of the witness upon the ground that it is hearsay.

Q. Mr. Jakway of the firm of Jakway & Faust?

A. Yes, sir.

(Testimony of Mrs. Lizzie A. Wells.)

Recross-examination.

(By Mr. WALSH.)

Q. Did you come to Helena by way of Missoula when you came to Helena for the purpose of filing, Mrs. Wells? A. I did.

Q. What business did you transact in Missoula with reference to this land before coming on to Helena?

A. Not any.

Q. Are you sure about that, Mrs. Wells?

A. Yes, sir.

Q. And who were these people that came to Helena with you?

A. I couldn't say, only Mr. Griswold.

Q. Is that all?

A. There was a number of others on the train coming here on the same business, but who they were I don't know.

Q. Where did you make out your sworn statement?

A. At Mr. Greene's office.

Q. At whose office?

A. Mr. Greene's.

Q. Who wrote it out? A. Mr. Griswold.

Q Are you sure about that? A. Yes, sir.

Q. Didn't Mr. Catlin make it out in Missoula?

A. Mr. Griswold claimed to make them out. I asked him to attend to it, and he said he would.

Q. That is all you know about it?

A. Yes, sir.

(Testimony of Mrs. Lizzie A. Wells.)

Q. You testified positively about it a little while ago, didn't you, that Mr. Griswold made them out?

A. I don't think I did.

Q. What did you do when you came here for the purpose of filing?

A. Didn't do anything that I can remember of except go to the land office and file.

Q. What did you do there?

A. Mr. Greene asked me where I came from; he did his business and I paid him ten dollars.

Q. At the time you filed, you mean?

A. Yes, sir.

Q. Do you feel sure about that, too, Mrs. Wells?

A. I do.

Q. At the time you filed you paid Mr. Greene ten dollars? A. Yes, sir.

Q. What papers, if any, did you sign?

A. That I don't remember.

Q. You don't know?

A. No, sir, I don't remember of signing any papers at all.

Q. Well, do you mean to say that you did not?

A. I don't mean to say that I did not, but I don't remember what papers I did sign.

Q. How did Mr. Greene know the description of your land? A. I had it with me.

Q. In what shape did you have it?

A. I had it made out in a form.

Q. What was the form?

(Testimony of Mrs. Lizzie A. Wells.)

A. The same as any filing would be.

Q. Where did you get that?

A. Why, that Mr. Griswold fixed up for me.

Q. Where?

A. I suppose he did it here in Helena, but you see, he filled it out in Missoula.

Q. Where did you get it? Where were you when you got it from him?

A. He sent it up to the hotel by Mr. Gilles.

Q. So that the matter of the filing was attended to by Mr. Griswold? A. Yes, sir.

Q. Now, when Mr. Griswold came up there with that thousand dollar check, and went to you to buy the two claims for a thousand dollar check, what did you say to him?

A. I didn't have anything to say to Mr. Griswold, my husband talked with him.

Q. Did you have any talk with your husband about it? A. What is that?

Q. Did you have any talk with your husband about it?

A. Nothing, only he said he wouldn't accept it.

Q. What did he say he told Mr. Griswold?

A. I didn't ask him.

Q. You didn't ask him? A. No, sir.

Q. Well, what do you know about the check?

A. I saw a check.

Q. Did you hear the conversation that occurred between them? A. No, sir, I did not.

(Testimony of Mrs. Lizzie A. Wells.)

Q. Well, where did you see the check?

A. There at home.

Q. Who had it when you saw it?

A. It was lying on the table when I picked it up.

Q. You were right there when Mr. Griswold took it out? A. Yes, sir, I was.

Q. Then you ought to be able to tell us what was said.

A. I read the check, and didn't stay in the room after that.

Q. What is that?

A. I read the check, and I didn't stay in the room.

Q. Well, what was said when the check was produced? A. That he wouldn't accept it.

Q. Is that all that was said?

A. Yes, sir, that is all I heard.

Q. Nothing further? A. No, sir.

Q. Mr. Griswold said, I want to buy this land and will give you a thousand dollars for it and here is the check, and Mr. Wells, said he wouldn't accept it?

A. That is the substance of it.

Q. That is the substance of the conversation?

A. Yes, sir.

Q. Who paid the ten dollars that you paid into the land office? A. I paid it myself.

Q. Where did you get the money?

A. I got it at home.

Q. Who paid your expenses down here, Mrs. Wells?

(Testimony of Mrs. Lizzie A. Wells.)

A. I paid them myself.

Q. Where did you get the money?

A. I got it at home.

Q. Who did it come from, Mr. Griswold?

A. No, sir.

Q. Out of the other? A. No, sir.

Q. Who paid your hotel expenses while you were here? A. I paid them myself.

Q. Paid them out of your own funds?

A. Yes, sir.

Q. Who paid your expenses when you came down here to make final proof? A. I paid them myself.

Q. Who paid your husband's expenses when he came down here to make final proof?

A. He paid them himself.

Q. Paid them out of his own funds?

A. Well, yes, out of our funds.

Q. Where did you have your notice published?

A. In the "Garnet Mining News."

Q. Who paid for that? A. We did.

Q. When you say, "we did," who do you mean?

A. My husband and I.

Q. How did you pay for that, Mrs. Wells?

A. In money.

Q. How did you pay it?

A. We sent it by registered mail.

Q. To the "Garnet Mining News"?

A. Yes, sir.

Q. Did you send it yourselves?

(Testimony of Mrs. Lizzie A. Wells.)

A. Yes, sir.

Q. How much was it?

A. Well, I couldn't tell exactly.

Q. Whose money was that?

A. It was our own money.

Q. We figured up this morning, when each of these claims cost you about five hundred dollars apiece?

A. Yes, sir.

Q. You think they did actually cost you about that amount of money? A. I do.

Q. And all of that money was your own money that you had put into the claims?

A. It was, yes, sir.

Q. And no portion of it had been borrowed from anybody? A. No, sir.

Q. And Mr. Griswold desired you to sell each of these claims for just exactly the amount of money you had paid for each of them?

A. He offered us a check.

Q. And you didn't say anything at all about the claims having cost you that much money?

A. I didn't look at the check hardly.

Q. You didn't say to Mr. Griswold at that time that it was foolish to offer you any such sum as that because you had paid that much for the claims?

A. I guess he knew by our looks.

Q. He offered you this same amount again down in Missoula?

(Testimony of Mrs. Lizzie A. Wells.)

A. No, sir, I don't remember of him offering the same amount.

Q. Oh, well, you said, did you not, that he came to the hotel that you were staying, at the Missoula House, and asked you to sell the claims for a thousand dollars?

A. He had took.

Q. Well, he made you that offer?

A. He—

Q. He wanted you to sell for a thousand dollars?

A. No, sir.

Q. Didn't you say that he came there and offered you a thousand dollars for the claim and wanted you to sell him those claims? A. I did not.

Q. Well, what was said in regard to what he said about getting the claims. What did you say this morning as to what Mr. Griswold said at the hotel in Missoula?

A. He said if he didn't get the claims, he would lose his job.

Q. And did you not, this morning, in the course of your examination, say that Mr. Griswold came to the hotel in Missounla again, and I wanted you to sell the claims for a thousand dollars, and that you again refused, and that then Mr. Wells went to Mr. Catlin and negotiated for the sale of the claims.

A. He didn't state—

Q. No, but did you state that this morning?

A. I don't think I stated any price that was offered, this morning.

(Testimony of Mrs. Lizzie A. Wells.)

Q. That is your signature, too, isn't it, Mrs. Wells? (Counsel hands witness paper.)

A. Yes, sir.

Q. When did you first see that paper?

A. I must have seen it the first day of August.

Q. The first day of August, 1899? A. Yes, sir.

Q. And where were you when you first saw it?

A. I couldn't say as to that, it must have been in Mr. Greene's office. I didn't notice what paper Mr. Griswold sent up. That might have been the one. What papers I signed in the office I don't remember. I looked them over very carelessly.

Q. This may have been the paper that Mr. Griswold sent up to you? A. It might have been.

Q. What time of the day did you get here?

A. I think it was about eleven P. M.

Q. And what time of the day was it when you went to the office?

A. Well, I couldn't say. It was some time in the afternoon of the next day.

Q. And when did you return?

A. I returned the next day.

Q. So that if you filed on the first day of August, you returned on the second? A. Yes, sir.

Q. The same day as this exhibit, 201, that I showed you this morning bears date? A. Yes, sir.

Q. Now, wasn't there any talk going up on the train to Missoula about this land?

A. I didn't see Mr. Griswold on the train at all.

(Testimony of Mrs. Lizzie A. Wells.)

Q. You did go up on the train with him at the time you made your final proof, didn't you? A. Yes, sir.

Q. Didn't you talk with him at that time?

A. No, sir; not to my own knowledge.

Q. And it wasn't until about three weeks after that time that he came up to your house?

A. I said some place near three weeks.

Q. And then he asked you to transfer this land for a thousand dollars? A. Yes, sir.

Q. And told you he would lose his job if he didn't get it? A. He asked us to.

Q. He told you he would lose his job if you didn't do it, didn't he? A. Yes, sir.

Q. How far did he go with you on your return?

A. I didn't see him at all on my return. He didn't go anywhere. He stayed in Helena as far as I know.

Q. And when next did you see him? Did you see him when you made your final proof?

A. Oh, I beg your pardon, I didn't understand your question. The question was how far did he go with us the day that we made our final proof?

Q. Yes; that is what I was asking you.

A. Well, he went to Missoula with us.

Q. And he returned from Missoula, as I understand you, the succeeding day, to your home?

A. Yes, sir.

Q. And up to that time, Mr. Griswold hadn't said anything to you about buying the land.

A. He wanted to know if we wanted to sell it.

(Testimony of Mrs. Lizzie A. Wells.)

Q. Where was that?

A. That was there at Missoula.

Q. When was that, Mrs. Wells?

A. The next day, or that day, I don't remember which.

Q. What did you say about it?

A. We told him no.

Q. What did he say when he got this telegram on the train?

A. Well, I don't remember what Mr. Griswold did say.

Q. Never said a word, then, about selling the land?

A. No, sir.

Q. Not even when he got this telegram?

A. No, sir.

Q. Is your memory any more accurate this afternoon than when you signed the paper?

A. I don't ever remember of seeing that writing before.

Q. Don't remember to have seen this exhibit 201?

A. Yes, sir; I don't ever remember of seeing that writing before.

Q. Well, do you ever remember of seeing the signature on that paper before? (Referring to Exhibit No. 201.)

A. How that got there, I cannot tell. I suppose it was a piece of paper that it was written on.

Q. That is what you think about it?

A. Yes, sir; that is what I think about it.

Q. Mr. Griswold, you say, got this telegram while you were eating at the table in the dining car.

(Testimony of Mrs. Lizzie A. Wells.)

A. He did.

Q. You and your husband, and he had lunch together?

By Mr. MAYNARD.—I object to this, it is the same identical question that was asked and answered over and over again in the cross-examination of this witness this morning.

A. Yes, sir.

Q. How did you come to see that telegram?

A. He got it while we were sitting right there at the table and we couldn't help it.

Q. Well, you were not prying into the private telegrams that Mr. Griswold got, were you?

A. We were not.

Q. It isn't a very common occurrence, is it, for you to ascertain the contents of private telegrams, that others get when they are in your company?

A. I didn't ask to read the telegram.

Q. You didn't ask to read the telegram, you say?

A. No, sir; I did not.

Q. What do you mean by that?

A. He showed it of his own accord.

Q. Who showed it of his own accord?

A. Mr. Griswold.

Q. To whom did he show it?

A. To my husband and myself.

Q. Your husband is the same gentleman that was here testifying some time ago?

A. He was here and testified.

(Testimony of Mrs. Lizzie A. Wells.)

Q. Do you know of any reason why he didn't say anything about this telegram?

A. I suppose he did; I don't know.

Q. You suppose he did?

A. Yes; I don't know but what he did. I don't know but what he testified about it.

Q. Well, when did you talk over the matter of this telegram with your husband? A. With whom?

Q. With your husband, when did you talk to him about this telegram?

A. Why, there was no talk about it at all.

Q. Was nothing at all said about it?

A. Not that I remember of.

Q. Not that you remember of? A. No, sir.

Q. You didn't talk this matter over with him before you came down here as a witness, did you?

A. No, sir; I did not.

Q. Now, Mrs. Wells, are you quite sure about that?

A. I am.

Q. Did you ever talk it over with him at any time?

A. We might have mentioned it.

Q. When did you mention it?

A. I cannot tell, and I don't know as we ever did.

Q. It is a mere matter that you might, or you might not but you don't know whether you did or did not. Is that how we are to understand you?

A. Yes, sir.

By Mr. MAYNARD.—Now, if your Honor please, I desire to interpose the objection that the cross-examina-

(Testimony of Mrs. Lizzie A. Wells.)

tion of this witness has gone beyond all reasonable limit, and beyond all the rules of law. Counsel spent an hour and three-quarters in the cross-examination of this witness this morning. I simply asked this witness three or four questions on the direct examination. I understood that counsel would be obliged to confine their cross-examination to the matter which was brought out on direct examination and he cannot, under the guise of cross-examination, badger this witness for two or three more hours, and I apply to the Examiner for some protection to this witness, who has come here and has made the best witness we have had here, because she is simply telling the plain truth.

By Mr. WALSH.—I will say, if your Honor please, on behalf of counsel, that if at any time when the Master thinks I am badgering this witness, or not treating her fairly, I shall be obliged to the Examiner, if he will stop me.

By the EXAMINER.—The Examiner cannot always understand the desires of counsel in the cross-examination of witnesses, but sees no reason at this time for stopping the cross-examination. I say this without any desire of expressing any opinion upon the merits of the matter.

Q. Well, now, if you didn't talk with your husband about it, with whom did you talk?

A. I don't know that I had any conversation with anybody.

By Mr. MAYNARD.—I desire here to move that all the

(Testimony of Mrs. Lizzie A. Wells.)

questions and answers which counsel has brought out, and what conversations Mrs. Wells has had with her husband as incompetent proof, for the reason that they are communications between husband and wife, and have no business whatever in this record, and therefore ought not to be asked.

Q. You mean to have us understand them, that you never had any talk about this telegram with anybody until you came down here to testify in this case?

A. I do.

Q. And that is nearly three years ago?

A. Yes, sir.

Q. With whom did you first talk about this telegram?

A. Why, I suppose, my husband. I suppose my husband and I talked about it first, but I don't remember what we said, or whether we said anything about it.

Q. You told me a moment ago that you didn't recollect any such conversation.

A. It was simply mentioned—the fact that I saw such a telegram was simply mentioned.

Q. Mrs. Wells, you have told me that you didn't talk with your husband, and you haven't talked with anybody else about it. I want to know who you did have any conversation with?

A. I spoke about the telegram, and said I knew what was in it.

Q. Now, Mrs. Wells, if you desire to change your answer to the question in which you said that you didn't

(Testimony of Mrs. Lizzie A. Wells.)

have any conversation about this telegram, you may do so.

A. I said I did see the telegram, and that I knew what the contents of it were.

Q. Now, that is what I am asking you; who did you talk to about it?

A. I spoke to Mr. Maynard, and I also spoke to Mr. Griswold about it.

Q. When was the talk with Mr. Griswold about it?

A. This morning.

Q. That is the first time you talked with Mr. Griswold about the contents of the telegram? A. Yes, sir.

Q. That once, and no more?

A. I don't remember of having mentioned it before to him.

Q. And you never talked with Mr. Maynard about it until this morning?

A. I didn't know Mr. Maynard until yesterday.

Q. So that, for a whole period of three years, Mrs. Wells, you have no recollection of ever mentioning to anybody anything about this telegram or the contents of it?

A. No; unless it might be to my husband, and if I did, it didn't make any difference.

Q. Oh, your memory is so accurate about it that you can tell now just what was in the telegram?

A. Yes, sir.

Q. There seems to be more accuracy about that, then, than there is about the signature before you?

A. Well, that signature; I don't know anything about it.

(Testimony of Mrs. Lizzie A. Wells.)

Q. What bank was this thousand dollar check drawn on? A. Of Mr. Cobban's?

Q. That Mr. Griswold offered to you at your house?

A. Why, I think it was the Western National, but I cannot swear to it.

Q. Of Missoula? A. Yes, sir.

Q. When do you know of your husband getting any money from the Blackfoot Milling Company next prior to the time that you executed the mortgage on these timber claims to that company?

A. That spring closed up our deal with the Blackfoot Milling Company, and after then, our business with them closed.

Q. What is that?

A. That spring closed up our business with the Blackfoot Milling Company.

Q. Well, you mean the spring of 1900, don't you?

A. Yes, sir.

Q. Well, I ask you when next before the time that you executed this mortgage upon these claims, did you get any money from them?

A. The year before, just about a year.

Q. That is to say that this indebtedness to the Blackfoot Milling Company had been in existence about a year before you gave them the mortgage upon these timber claims?

A. No; we settled up with them every spring. We got the money to buy beef with to prove up on the claims—after we had proved up on the claims.

(Testimony of Mrs. Lizzie A. Wells.)

Q. What is that?

A. We got the money after we proved up on the claims.

Q. I want to know when next before the time you got any money? A. We got it the year before.

Q. I want you to understand the question, Mrs. Wells, You made a mortgage some two or three days after you proved up on the claim? A. Yes, sir.

By Mr. MAYNARD.—We object to the further examination of this witness, because the same identical questions have been asked the witness by Mr. Walsh on his former cross-examinaton, and the witness has answered the question fully, and it is not fair for him to go over and over the same ground.

Q. Now, Mrs. Wells, you understand the question I am asking you, don't you?

A. You want to know if we got money of the Blackfoot Milling Company before we got the claims—before we proved up on the claim?

Q. No; I don't want to know that. I want to know when it was next before you executed the mortgage that you got any money from the Blackfoot Milling Company?

A. We hadn't got any money from them for a year before.

Q. Now, when you got that money, of course, you deposited it to your bank account?

A. What money?

Q. The money from the Blackfoot Milling Company.

A. We used it to buy stock.

Q. Well, that is what I want to know. Did you take

(Testimony of Mrs. Lizzie A. Wells.)

the money that you got from the Blackfoot Milling Company? A. We took the money.

Q. Took the cash? A. Yes, sir.

Q. In the shape of a thousand dollars in bills or otherwise? A. Yes, sir.

Q. You didn't put that in your bank account, did you?

A. No, sir; we wanted that to use for our stock.

Q. Well, did you have a bank account at that time?

A. We have had a bank account off and on with the Western National Bank there for a good while, whether we had any money in the bank at the time I cannot say.

Q. Didn't you tell me this morning that when you got this draft from the east you turned it into your bank account? A. We did, yes.

Q. Well, when was that with reference to the time that you made your final proof?

A. That was some time in July.

Q. Some time in July that you got this money from Minnesota? A. Yes, sir.

Q. You didn't take up your claim until August?

A. No, sir.

Q. Now, the counsel, in the course of his direct examination, asked you a question about this, and you told him that you intended to use this thousand dollars which you got from the east in the conduct of your husband's business, was that correct? A. Yes, sir.

Q. Didn't you tell me this morning that you sent to Minnesota and got that money with which to make final proof upon these claims?

(Testimony of Mrs. Lizzie A. Wells.)

A. We did, and expected to get more money to go on with the business.

Q. Now, Mrs. Wells, which is the fact, as you told me this morning that you sent to Minnesota to get money with which to make your final proofs on these claims, or as you told counsel that you wanted this money for the purpose of proving up on your claim?

By Mr. MAYNARD.—The witness testified that having used the money unexpectedly for the purpose of buying these claims, she then found that it was necessary to get money elsewhere to carry out the purposes for which she stated, and the counsel can refer to the stenographer's notes and they will bear me out.

A. What I swear to now is all right.

Q. That you said this morning that you had sent to Minnesota for this thousand dollars for use in your business? A. Yes, sir.

Q. And that you didn't say this morning that you sent to Minnesota for this thousand dollars with which to pay for these claims?

A. I don't remember whether I did or not.

Q. Well, did you not say this morning that you sent to Minnesota for a thousand dollars out of your father's estate to pay for these claims?

A. I said I got it.

Q. Didn't you say that you sent for it to make proof upon these claims, and pay for these claims?

A. I got it to go on with our business.

(Testimony of Mrs. Lizzie A. Wells.)

Q. I am asking you now what you said this morning. Did you not say so this morning? A. No.

By Mr. MAYNARD.—I appeal to the stenographer's notes for what she said. I challenged counsel to produce the stenographer's notes, and I say that absolutely without any question whatever that she so testified, and the stenographer so took it down and his notes will bear me out, just as I stated before. Mr. Blair is within five minutes' call from this room, and I challenge counsel to produce Mr. Blair with his notes on that subject.

By Mr. WALSH.—I guess that is all.

MRS. LIZZIE WELLS.

Subscribed and sworn to before me this 27th day of March, 1902.

HENRY N. BLAKE,
Examiner in Chancery.

ALFRED STEWART, a witness on behalf of complainant was then called to the stand and was duly sworn by the Examiner.

Thereupon the following incident occurred.

By Mr. WALSH (To the Witness.)—Have you been indicted by the grand jury, Mr. Stewart?

A. Yes, sir, I have, under the name of Albert Stewart.

By Mr. WALSH.—I desire to have an opportunity, if your Honor please, to have a talk with the witness before he is examined.

(Testimony of Alfred Stewart.)

By Mr. MAYNARD.—I desire to have it entered of record so that it will be shown that Mr. Stewart has unexpectedly come to town, and has unexpectedly entered the courtroom, without the knoweldge of the representative of the Government, and evidently without the knowledge of Mr. Walsh and Mr. Bickford, and that I desire to go on with the examination of the witness without the interview suggested.

By Mr. WALSH.—Mr. Walsh desires to state that he has been engaged to defend this man against a criminal charge in connection with the entry referred to in the bill of complaint in this cause, and that the witness has been indicted by the grand jury, and Mr. Walsh has had no opportunity to confer with this man cencerning the facts, and that he shall advise the gentleman not to testify upon the ground that his evidence might tend to incriminate him, and unless he has an opportunity to counsel with him and advise him as to his rights in the matter, he will advise him not to testify to any of the facts connected with his entry.

By Mr. MAYNARD.—On behalf of the Government I desire to say that the Government will be perfectly content to have that course taken.

By the EXAMINER.—Counsel, Mr. Walsh, will be given an opportunity to advise and counsel with the witness.

Thereupon the witness, together with Mr. Walsh, his counsel, retired from the office of the Examiner, and

(Testimony of Alfred Stewart.)

absence of about five minutes, returned into court, whereupon the witness resumed the stand, and the examination proceeded as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. Mr. Stewart, when did you have the pleasure of forming the acquaintance of my friend, Mr. Walsh?

A. Well, I believe just now.

Q. Just now? A. Yes, sir.

Q. Did you just now become informed of the fact that he was your lawyer in the criminal matters pending against you? A. No, sir.

Q. You had been informed of that fact before?

A. Well, I knew that, yes, sir.

Q. Who told you that?

A. Well, I couldn't say exactly. I understood that those cases were taken by Mr. Stiff and his partner.

Q. Marshall & Stiff, do you mean?

A. Yes, sir, and my understanding was that Mr. Walsh was interested in it too.

Q. But you cannot remember who told you that?

A. Well, I found out from Mr. Stiff myself when I came here on these indictments to answer them.

Q. When you came here under arrest for perjury then Mr. Stiff informed you of the fact that he had been employed for you?

A. Well, I understood so, if I had a mind to accept of them.

(Testimony of Alfred Stewart.)

Q. And Mr. Walsh has been employed by them as counsel? A. Well, I believe that is the case.

Q. Then Mr. Stiff informed you that they had been employed in your behalf?

A. Well, I suppose so, as I said before.

Q. You haven't paid any money to anybody, have you?

By Mr. WALSH.—We object to that as leading.

A. Yes, sir.

Q. How much did you pay? A. Ten dollars.

Q. And who did you pay that to?

A. Well, I paid that to Mr. Cobban.

Q. You paid that to Mr. Cobban? A. Yes, sir.

Q. Where do you live, Mr. Stewart?

A. I live at Ovando, north of it about four miles, or five miles probably.

Q. How long have you lived there?

A. I have lived there about—going on nine years, about eight years last December, I think.

Q. Are you a married man?

A. I am, yes, sir.

Q. Where did you live before that?

A. I lived in Helena.

Q. In Helena? A. Yes, sir.

Q. What property have you?

A. I have a homestead that I took up there about six years ago, the first of this next coming month, but I have been living on the same place for eight years.

(Testimony of Alfred Stewart.)

Q. Well, did you—what right did you have when you first settled on the land, a squatter's right?

A. Well, I just moved onto it, it was government land.

Q. That is you squatted on government land.

A. Well, I suppose that is what you call it. I squatted on the land and cultivated it, and I lived there two or three years before I filed on it. I was there two years, or about two years and a half. It was land that had been taken by other parties, and was abandoned. And their time wasn't out yet on it exactly, and so I lived on it until their time was out and then I filed on it.

Q. That was 160 acres? A. Yes, sir.

Q. Have you obtained title to it yet?

A. I haven't proved up on it yet.

Q. You haven't proved up on it yet?

A. No, sir.

Q. How long will it be before you can get title to it?

A. I have got two years from the first of April to live on it yet.

Q. Then you have got to live there two years yet?

A. No, I am allowed another two years. I believe I have got to prove within eight years from the time I filed.

Q. And then what will you have to do?

A. I will have to prove up, make final proof on it then.

Q. And what will you have to pay?

(Testimony of Alfred Stewart.)

A. Just witness fees I suppose, and land office fees, I don't know just the sums.

Q. And, then, by reason of your residence, acquire your title? A. Yes, sir.

Q. Have you any other real estate beside this 160 acres?

A. Nothing only this timber claim that is all.

Q. What personal property have you?

A. Well, I have got probably four or five head of horses, say five head of horses.

Q. What is that?

A. I have got five head of horses, and I have only got a couple of cows. I sold some, and I have got farming implements, of course.

Q. About five head of horses, and couple of cows, and farming implements, etc.? A. Yes, sir.

Q. That is the extent of your property, is it?

A. Yes, sir.

Q. At the time that you took up your claim, was the condition of your property about the same then as it is now? A. How do you mean?

Q. Did you have more or less then than now?

A. Why, I didn't have anything at all.

Q. When you filed on this timber claim, I mean?

A. Yes, my personal property such as I have was about the same, yes, sir.

Q. How much of a family have you?

A. I have got three children and a wife.

(Testimony of Alfred Stewart.)

Q. Now, then, will you please state the circumstances, which led you to take up this timber claim?

A. Why, I began thinking about taking up a timber claim for quite a while. A little while before that, and one day while I was in Ovando, I was speaking to Mr. Faust, and Mr. Jakways wasn't in the store. I said that there was a quarter section right close to me, and I said I would like to have it providing I had the money to prove up on it, for timber land, and we talked about it one way or another, and backwards and forwards. I wasn't so well informed as he was as to what my rights were, but he said he would advance me the money, he and Mr. Jakways would advance me the money to prove up on that if I wanted it. That was along sometime in June, I think. It was sometime before, and I came over to Helena on it immediately. Well, about a month after that I guess.

Q. Had some of your neighbors taken up claims there too?

A. Yes, there was quite a number of them talking about it, and had taken up claims. I don't know who all of them were.

Q. Can you name some of them?

A. I believe I can. There is Mr. Hoyt.

Q. Elijah W. Hoyt?

A. Yes, sir. And Mr. Doney.

Q. M. J. Doney?

A. Yes, sir, I think he was one. He testified here about two weeks ago, I think.

(Testimony of Alfred Stewart.)

Q. He was the one that was here and testified as a witness? A. Yes, sir.

Q. And his wife, did his wife take up a timber claim?

A. I couldn't say anything about that.

Q. Well, who else, go on and state, if you can remember?

A. Well, there is Mr. Muchmore's boys, there is two of them, three of them altogether. Two of them took up claims I know, whether the other one did or not, I don't know. I think he did though. I didn't know anything about it though until after he had proved up. And there was Mr. Louis Jakways and his sister.

Q. What was his sister's name?

A. Her name was Hawthorne.

Q. May Hawthorne?

A. Mrs. Hawthorne, anyway.

Q. And can you think of any more?

A. Yes, there was Mr. Opsata.

Q. Yes, your neighbor, Nels Opsata?

A. Yes, sir.

Q. Well, now, how near did these people that you have mentioned, live from you?

A. Oh, lived from five to twenty miles. They were what we called neighbors.

Q. In other words, they were neighbors of yours, were they?

A. Yes, we call them neighbors when they are living within twenty miles. It isn't a very thickly settled country, and we often know a man and don't know who

(Testimony of Alfred Stewart.)

he is. But we find out who he is. Where the country isn't very thickly settled and they only live seven or eight miles from each other, we soon get acquainted.

Q. So they were near neighbors of yours?

A. Yes, sir; we called them near neighbors.

Q. You know a man by the name of Charlie Johnston? A. No, I don't know him.

Q. You don't know him?

A. No, I may know him, but only to see him. I don't know a man by that name.

Q. Now, do I understand you, that you had overheard these neighbors talking about the fact that they were taking up claims?

A. Why, I think probably I did, yes sir.

Q. Do you know Cora Faust?

A. Yes, sir; I believe I do.

Q. Who is she?

A. She is the wife of H. J. Faust.

Q. Of the firm of Jakways & Faust?

A. Yes, sir.

Q. Now, then, just who can you recall, Mr. Stewart, that you had talked with, of these people that you have named?

A. I don't know that I had a talk with any of them in regard to timber claims, only hearing that they had taken up timber claims.

Q. Did you hear who they were making arrangements with? A. I don't know that I did.

Q. You didn't see any of them?

(Testimony of Alfred Stewart.)

A. I didn't see any of them. I don't know that I heard any of them say that they had made arrangements about it, or words to that effect.

Q. You didn't hear Mr. Jakways mention it then.

A. In regard to timber lands, no, sir.

Q. What is that?

A. Not in regard to timber lands.

Q. Well, what did you hear about other names mentioned in connection with these claims, did you hear anything in any way?

A. Why, the only thing I knew about it was I understood but just only from hearsay. I am not telling it, only just as I heard it.

By Mr. WALSH.—We object to this testimony upon the ground that it is merely hearsay.

Q. Go on, Mr. Stewart.

A. That he was with Mr. Griswold, looking up timber claims, whether he was showing Mr. Griswold certain locations or not, I don't know anything about that.

Q. Just what the relationship that existed between Mr. Jakways and Mr. Griswold was, you don't know?

A. No, sir; I haven't the slightest idea.

Q. Are you able to state who you heard this from?

A. No, I don't know that I am, only that it was just a report. In fact, I saw Mr. Jakways and Mr. Griswold together.

Q. You saw them together?

A. Yes, sir, driving along.

Q. Where did you see them?

(Testimony of Alfred Stewart.)

A. I saw them at my house.

Q. Saw them at your house together?

A. Yes, sir.

Q. Was that before you took up this claim?

A. No, sir.

Q. That was afterwards was it?

A. Yes, sir; that was afterwards.

Q. Was that the first time you saw Mr. Griswold in connection with this matter, when he and Jakways were at your house?

A. No, I cannot say that it is.

Q. When do you remember first seeing him?

A. The first time I saw them was when Mr. Griswold and Mr. Jakways came over and inspected my quarter section.

Q. That is the first time you saw Mr. Griswold?

A. Yes, sir.

Q. And the first time that you knew Mr. Griswold?

A. I knew Mr. Griswold by hearsay, I wasn't acquainted with him personally.

Q. Just what did Mr. Griswold and Mr. Jakways do with reference to your quarter section?

A. They looked over it, and estimated the timber, I guess.

Q. What did they do in measuring up your timber?

A. They didn't do very much, but just estimated the timber on it. I understood that that was his business, but, of course, I don't know—that is estimating timber.

(Testimony of Alfred Stewart.)

Q. Did you go along with them?

A. I didn't that morning. I was driving my children to school, and I happened to come along, and they were right at the corner stake looking at it, and Mr. Jakways asked me if I would go and show them all the corners, but I told him I couldn't just then. I told him I had to drive the children to school, but on my return I would stop, and I did.

Q. What did you do then?

A. I went with them.

Q. And what did they all do then?

A. They just run out the lines, and found their course, I suppose, to see the extent of the timber land that was on the quarter section, how much timber land there was on it. At least, that is what I understood; they didn't give me any satisfaction about it.

Q. How many times did they do this?

A. They just went along once over it.

Q. What did you do?

A. I went along with them.

Q. For what purpose did you go along with them?

A. I knew where one corner was, but the other one I hadn't located yet, and they didn't locate it either, but I found it afterwards.

Q. What is that?

A. I found the corner afterwards, myself, before I filed on the land.

Q. When you were alone by yourself, you found it?

A. Yes, sir.

(Testimony of Alfred Stewart.)

Q. So, that all three of you together, were only able to find three corners?

A. We only found two corners, the quarter was in the center of the section, and there is no corner mark there. It cornered right on the center of the section.

Q. This was the center of the section?

A. I say the corner that is in the center of the section isn't located at all, and there is just two quarter corners on the corners of the land.

Q. How long was this before you filed on the land?

A. I couldn't just remember, it must have been a couple of weeks, I suppose, or such a matter.

Q. A couple of weeks before you filed?

A. Yes, sir.

Q. Did they tell you how much timber there was on the description? A. No, sir.

Q. Who told you how much it was worth, did they?

A. They did not, no, sir.

Q. They were working there by themselves?

A. Yes, sir; they were there by themselves.

Q. Did you ever see them before that time there?

A. No, I did not.

Q. Did you ever know of their being there afterwards? A. No, I did not.

Q. Do you know how much timber there was on the description?

A. No, only just as I have guessed at it myself. I have been a good deal in the timber, not from any information that I had received from anybody else.

(Testimony of Alfred Stewart.)

Q. What value did you attach to it?

A. Well, I considered it was worth probably about five hundred dollars. I think there was about five hundred thousand feet on it.

Q. What is that?

A. I had estimated that there was about five hundred thousand feet on it.

Q. Did you at any other time go out there to make any measurements?

A. Oh, I had been familiar with that as long as I had been there.

Q. I mean did you go up there to any particular place except the time that you have stated?

A. Yes, I had been there before. I had been all over that ground before, looking at the lands. My neighbor, that is on the east side of me has his fence on my ground, and his fences are a little off the section line and runs pretty close to the old cuttings. He tried to make it appear that his fence was on his land, on the line, but I was satisfied that it wasn't on the line. I had been looking at it a number of times, because the bulk of the timber is on that side of the section.

Q. Now, when you went back—you say you were taking the children to school at the time. A Yes, sir.

Q. Where did these men go?

A. Who have you reference to, Mr. Griswold and Mr. Jakways?

Q. Where were they?

A. Why, they were there, they went looking south—first of all they went along south.

(Testimony of Alfred Stewart.)

Q. I mean after they got through there with their work.

A. Oh, I don't know where they went then.

Q. Did you, or did you not, have any conversation with them after they had finished estimating the timber? A. No, I had no conversation with them.

Q. You don't know then that the timber was satisfactory to them. That is, you didn't know at that time?

A. No, I didn't know anything about it.

Q. They didn't say anything to you about it?

A. No, sir; they did not.

Q. When did you next see them?

A. Oh, I couldn't state that, really when I did next see them.

Q. You don't know that? A. No, sir.

Q. But do you remember of seeing them again?

A. Oh, I have seen both of them since then.

Q. I mean after this time you have fixed. Did you see them again with reference to this business?

A. No, sir.

Q. Did they ever, at any time, say to you that the timber was satisfactory to them?

By Mr. WALSH.—We object to that as being leading

A. No sir.

Q. Well, let me ask you, Mr Stewart, at the time and place you have fixed, when you say that Mr. Griswold and Mr. Jakways were there, wasn't there a third man there?

A. I believe there was a third man there, yes, sir.

(Testimony of Alfred Stewart.)

Q. Do you know Mr. Cobban by sight?

A. Yes, sir; I know Mr. Cobban by sight now.

Q. Was this third man Mr. Cobban?

A. This third man was Mr. Cobban.

Q. Well, what next did you do after this inspection of the timber by Mr. Cobban and his assistant?

A. What next did I do?

Q. Relative to making a location, yes.

By Mr. BICKFORD.—We object to that for the reason that he has not testified that the land was examined by Mr. Cobban and his assistants, and it has not been proven by the testimony of the witness on the stand that Mr. Cobban and his assisants ever examined the land.

A. Why, I don't know that I did anything about it.

Q. Well, the question is, how soon after that did you see Mr. Jakways? A. I couldn't say that.

Q. You couldn't say that? A. No, sir.

Q. You cannot say where you saw him?

A. I couldn't say where I saw him. I don't think I saw Mr. Jakways for a long time after that.

Q. Well, you filed—you filed on this land on the 20th of June, 1899. (I show the witness the original statement filed by him in reference to his entry.) Is that your signature, Mr. Stewart? A. Yes, sir.

Q. I read from the statement, as follows: "Land office at Helena, Montana, June 20th, 1899. I, Alfred Stewart, of Ovando, County of Deer Lodge, State of Montana, desiring to avail myself of the provisions of

(Testimony of Alfred Stewart.)

the act of Congress of June 3d, 1878, entitled, etc., for the purchase of the northeast quarter of section 18, township 15 north, of range 13 west, of the principal meridian of Montana, in the District of Lands, subject to sale at Helena, Montana," and so on. Now Mr. Stewart, you came here on the 20th of June, didn't you?

A. I did.

Q. Do you know—you say you know this handwriting. You know whose it is, our own signature.

A. Yes, sir.

Q. Do you know who filled this out? (Referring to the body of the paper.)

A. Well, no, I couldn't say that really, whether it was Mr. Greene or not. I think it was.

Q. Well, if the officers of the land offi - lidn't make them out, and they are forbidden by law to do so—

A. The officers?

Q. They are forbidden by law.

By Mr. WALSH.—You mustn't take as an absolute fact, Mr. Stewart, what the counsel tells you.

By Mr. MAYNARD (Addressing Mr. George D. Greene, Register at the Land Office at Helena, who was present in the room.)—Is that correct, Mr. Greene?

By Mr. GREENE.—It is an instruction, and not a law of Congress.

By Mr. MAYNARD.—Well, is it an instruction to your department?

(Testimony of Alfred Stewart.)

By Mr. GREENE.—Yes, not to fill out blanks except in certain cases, where the applicant is poor.

By the EXAMINER.—Indigent?

By Mr. GREENE.—Yes, indigent.

By Mr. MAYNARD.—And when that fact is made known by the man himself.

By Mr. WALSH.—If you will remember, Mr. Maynard, you were undertaking to say that it is an express provision of the law.

By Mr. MAYNARD.—Well, instructions of the department to the land office is equivalent to law.

By Mr. MAYNARD (To Mr. Greene).—I will ask you, Mr. Greene, whether or not, as a matter of custom, you obey that instruction?

A. We do generally.

By Mr. MAYARD.—You violate it at times do you?

By Mr. GREENE.—There are times when we are not busy that we make them out. Maybe I have made out a dozen in the four years that I have been in the office.

Q. Did you go into the land office, Mr. Stewart, and state that you were poor, and wanted them to do it?

A. No, sir.

Q. That is Mr. Greene of the land office? You heard what he said. Now the question is, in the light of what you have heard him say in your presence, and hearing, can you now state as to who made that out?

A. I think my recollection of the matter is that Mr. Greene made it out.

(Testimony of Alfred Stewart.)

Q. All right, I don't care whether he did or not, only I just want to find out. Is that your handwriting?

By Mr. MAYNARD (Addressing Mr. Greene again).—Is that your handwriting, Mr. Greene? (Counsel exhibits to Mr. Greene, papers in the entry under the Stone and Timber Act of the witness, Alfred Stewart.)

By Mr. GREENE.—No, sir, that wasn't written by anyone in the office. It looks to me like Mr. Langhorn's handwriting.

By Mr. MAYNARD.—Who is Mr. Langhorne?

By Mr. GREENE.—He is a land attorney, but I couldn't swear that that is his writing, but it has a very strong appearance of having been made out by Mr. Langhorne. It wasn't made out by anyone in the land office, I can say that.

Q. Do you know Mr. Langhorne? A. Yes, sir.

Q. When did you make his acquaintance?

A. I made his acquaintance the summer that I filed on the land.

Q. How did you happen to make his acquaintance?

A. I went into his office.

Q. For what purpose?

A. For to get him to look over the plat of the township to see what vacant land there was. Or rather, what quarter sections were vacant?

Q. Was Mr. Opsata with you at the time?

A. Yes, sir, he was.

Q. Who else was with you?

(Testimony of Alfred Stewart.)

A. There was no one else.

Q. Who told you to go there?

A. I think it was Mr. Jakways or Mr. Faust. Mr. Faust I believe it was.

Q. Well, now, in the light of what has occurred, who did you say now made that paper out?

A. I don't recollect anything about it, much, but my recollection was that Mr. Greene made it out.

Q. It seems probable now that this other man made it out, don't it?

A. It does, because I know we employed him.

Q. Employed who?

A. Employed Mr. Langhorne. I have no recollection of his doing that. I know he was doing some writing for us, went to the land office with us, and took some statements.

Q. Opsata's statement was made out at the same time, wasn't it? A. Yes, sir, I think so.

Q. How much did you pay this Mr. Langhorne for his services at that time?

A. Well, I don't remember really, what we did pay him.

Q. You don't remember that? A. No, sir, I do not.

Q. You say that he was to fix definitely the description by an examination of the plats?

A. Well, he went with us to the land office to examine the plats.

Q. He went with you to make an examination of the plats?

(Testimony of Alfred Stewart.)

A. Well, he went with us to the office to examine the plats to see whether there had been any filing on this land, in the meantime, because we knew before that there had been no filing. That is, we knew before we left home, but we couldn't tell whether there had been any filing since.

Q. Well, just how did you know that?

A. Well, Mr. Jakways informed us that there was no filings on it.

Q. And so that the only thing you had to guard against was the filing, that was it, since the information you received from Mr. Jakways, and your coming to Helena.

By Mr. Walsh.--We object to that also as leading.

A. Yes, sir.

Q. And you ascertained the fact that it hadn't been taken up?

By Mr. WALSH.—We object to that also as leading.

A. Ascertained the fact that they were open to entry.

Q. I wish you would try and recollect, Mr. Stewart, how much you paid this man. Can't you remember?

A. No, sir, I cannot remember what we did pay him at all.

Q. Well, do you know how it was paid?

A. I do not.

Q. Whether it was paid in currency or how?

A. No, I don't believe I know.

Q. You don't know how it was paid?

A. No, sir, at least, I don't remember.

Q. You cannot say whether it was paid in currency or in a check?

(Testimony of Alfred Stewart.)

A. No, sir, I don't think it was paid in a check.

Q. Well, do you remember of paying any money into the land office?

A. Yes, I remember of paying money into the land office.

Q. How much did you pay into the land office?

A. Well, I don't remember just exactly what the fees are. We paid for advertising, and what other fees there is connected with it, and I couldn't say to-day what they do amount to, because I didn't pay any attention to it. At least, I cannot remember. My memory isn't extra good to remember such things, as just a check, at all.

Q. You and Opsata were together? A. Yes, sir.

Q. And came here to Helena, and went back together?

A. Yes, sir.

Q. You both made your filing and did your business together?

By Mr. WALSH.—We object to that upon the ground that it is leading.

A. Yes, sir.

Q. Were you the manager of the party, or did he do the business, or did you both do it together?

By Mr. WALSH.—We object to that upon the ground that it is leading.

A. I know I paid my own expenses when I came here, and he did the same.

Q. You paid your own expenses when you came here to Helena?

(Testimony of Alfred Stewart.)

By Mr. WALSH.—We object to that as leading, and as repeating the testimony of the witness.

A. Yes, sir.

Q. Now, Mr. Stewart, just what do you mean by that. I call your attention to the fact that there was the expenses at the land office, and the expenses of this Mr. Langhorne. Now, just state what you mean by that.

A. I mean the expenses at the land office.

Q. Now, I ask you how much that was.

A. Well, I don't remember just exactly how much that was. I had it running in my mind that it was somewhere in the neighborhood of twelve dollars for advertising, and what other fees there were.

Q. You wouldn't be certain about that?

A. No, sir.

Q. As a matter of fact, if those fees were regulated by law, and they were one dollar for the receiver's fees, and ten dollars for filing, that would be eleven dollars. Now, can you recall anything else?

By Mr. WALSH.—We object to that as leading and as cross-examination of the witness.

A. No, sir.

Q. Well, now, having stated that again, you may state whether or not it was eleven dollars that you paid into the land office?

By Mr. WALSH.—We object to that as leading and as cross-examination of the witness. We further object to the statement of counsel for the reason the fee the counsel has stated is incorrect, there being no such a thing as a fee

(Testimony of Alfred Stewart.)

of one dollar at the time of the making of the sworn statement.

Q. Very well, there would be ten dollars at the time of making the sworn statement, and giving the testimony at the time of proving up. Now, then, assuming that it was ten dollars, have you any recollection of ever paying more than that?

A. Well, I have a recollection of paying money for advertising.

Q. You remember that, do you? A. Yes, sir.

Q. To whom was that paid?

A. That was paid to Mr. Greene.

Q. How much was that for?

A. The advertising, do you mean? A. Yes, sir.

A. Well, I cannot really say, because I may be mistaken.

Q. You are sure of that, are you? A. Yes, sir.

Q. Well, if Mr. Greene was prohibited by law from receiving that money, then what would you say?

By Mr. WALSH.—We object to that for the reason that there doesn't seem to be any prohibition, nor is it so provided by law that authorizes any such interpretation.

By Mr. MAYNARD.—I reply that there is a positive enactment of law providing for that matter, and it appears here in this testimony that the land office never receives the payment for the publication of the notices.

Q. Now, then, I say, the question is, assuming that these officers are prohibited by law from receiving money for the publication of the notices, what would you say,

(Testimony of Alfred Stewart.)

then, as to whether you had paid the money into the land office?

By Mr. WALSH.—Wait a moment, are you going to stand by that, Mr. Maynard?

By Mr. MAYNARD.—I will ask Mr. Greene, the register of the land office. (Mr. Greene, the register of the land office, was still present in the room.)

By Mr. GREENE.—I don't know of any law, Mr. Maynard, prohibiting the land office from receiving money for advertisements.

By Mr. MAYNARD.—Well, we will see. What are the instructions that you received from the general land office?

By Mr. GREENE.—We have no instructions about that. It has been the custom for the parties to pay the paper. In some cases, however, they have requested us to send it to the paper. Whether it was done in this single case, or not, I cannot say. There has been very few instances where that has been done, but there might have been three or four cases in which it was done.

By Mr. MAYNARD.—Three or four in all of the proofs that were made in that year?

By Mr. GREENE.—Yes, sir. And in that three or four cases it was done as an accommodation to the parties.

By Mr. WALSH.—Your statement, made a moment ago, that there was a positive prohibition of law. I ask you now, if you are going to modify your statement, that there is a prohibition against the register preventing him from taking money and sending it to the newspaper.

(Testimony of Alfred Stewart.)

By Mr. MAYNARD.—There is a direct instruction from the Department of the Interior to all the local registers and receivers, not to receive one cent of the money from the entryman and entrywoman for the publication of the notices. That they have nothing whatever to do with it, and when they do it, they violate their duty, and I refer to the testimony given here, over and over again by Mr. Greene that the notices—that the money for the publication of the notices was not paid to the local land office.

By Mr. GREENE.—I never said upon the witness stand or anywhere else that they never sent the money. I did state on the witness stand that the claimant was presumed to pay for it, whether he paid it through our office or directly to the newspapers. That made no difference. Sometimes a newspaper has sent no proof of publication of a notice with the request that we collect at the time final proof was made. That was satisfactory to the claimant, and the newspaper, and in some few cases we did.

By Mr. MAYNARD.—And you say that was done in three or four cases?

By Mr. GREENE.—In these timber and stone matters, but as a rule, we had nothing to do with it, and I desire to have as little as possible to do with that matter.

A. Well, my impressions is that I paid the money to Mr. Greene, and, as he says, through a matter of courtesy, to be forwarded to pay for the publication.

Q. That is your impression about it?

A. Yes, sir, that is my impression.

(Testimony of Alfred Stewart.)

Q. Is it a strong impression, so that you are able to say that you paid it?

A. Well, I wouldn't swear actually, but I think I did do it. But it is my impression, and rather a strong impression in my mind.

Q. What do you know, Mr. Stewart, about the publication of the notice in the paper?

A. Why, I know it had to be published in the paper for a certain length of time.

Q. You knew that? A. Yes, sir.

Q. You had seen it in the paper?

A. Yes, besides I had paid expenses in proving homesteads. Well, but I had seen it in the paper, and I knew it was a fact, because I read the law that they had to be published a certain length of time before final proof was offered, for so many days, sixty days, I think.

Q. Do you know what paper this was to be published in?

A. I think it was published in the "Garnet Times."

Q. In the "Garnet Mining News," you mean?

A. In the "Garnet Mining News," yes, sir.

Q. How far is this "Garnet Mining News" from your home?

A. In the neighborhood of twenty-five miles.

Q. Did you take the paper?

A. No, sir, I didn't take the paper.

Q. Well, then, be that as it may—I ask you now, if you have any present recollection as to the amount of money that you paid into the land office at this time?

(Testimony of Alfred Stewart.)

By Mr. WALSH.—We object to that for the reason that it has already been answered.

A. At the time I filed.

Q. Yes, sir?

A. I was under the impression that I paid in about twelve dollars. That is, altogether. But still I wouldn't be certain about it. I know no more—I believe that the paper makes it a rule that where there is two proving up at the same time, if their notices come in together, it is a little cheaper. I don't know how much, but Mr. Opsata and I went together and we saved a little bit, but not very much.

Q. Well, now, Mr. Stewart, if you are under the impression that you paid twelve dollars into the land office, and ten dollars of it was the register's fee, would you think that two dollars would pay for the legal publication?

A. No, I don't think so.

Q. Well, how much then, do you think—how is it then, do you think, you were mistaken about paying any money into the land office?

A. No, sir, I don't think I was. I think I paid it into the land office all right.

Q. Well, you couldn't have paid twelve dollars into the land office, could you?

A. Well, I don't remember what the advertising fees were, but I think it must be more than two dollars. I think it might have been seven or eight dollars.

By Mr. WALSH.—Well, suppose you drop out the

(Testimony of Alfred Stewart.)

proposition that he has got to pay out ten dollars register's fee.

By Mr. MAYNARD.—Well, as a matter of fact, in June, 1899, in the Helena land office they were being paid.

Q. Now, then, Mr. Jakways—I mean, Mr. Stewart—do you know how much money it cost you to come from your home to Helena?

A. Do I know how much money?

Q. How much money, yes, how much were your expenses?

A. Yes, the railroad expenses was—I could figure it up, but I couldn't say right now to be exactly correct about it, just what it did cost.

Q. Did you strike the railroad at Drummond?

A. Yes, sir. Fifteen dollars.

Q. That is Drummond to Helena and return?

A. Yes, sir.

Q. Do you know what the round trip is?

A. Yes, sir.

Q. From Drummond to Helena and return?

A. Yes, sir.

Q. I mean about that time?

A. About that time it was five dollars.

Q. Well, now, how long were you here in Helena?

A. We came here one day, and went back on the next train the next day.

Q. Let me understand you. What time did you arrive here?

(Testimony of Alfred Stewart.)

A. Arrived here about—it seems to me sometime in the afternoon. I couldn't tell exactly the hour. I know we went in and made our filing that morning.

Q. You arrived here in the afternoon?

A. Yes, sir.

Q. Then you must have stayed here over night?

A. Yes, sir.

Q. And then the next morning you went to the land office and filed? A. Yes, sir.

Q. Then did you go out the same day?

A. Yes, sir, we went out in the evening.

Q. What time did the train arrive?

A. About noon. It may have been a little later.

Q. Then where did you go?

A. Went to Drummond.

Q. What time did you reach Drummond?

A. We reached Drummond in the afternoon.

Q. What time in the afternoon did you reach Drummond?

A. Probably about three o'clock.

Q. Then where did you go?

A. Then we went home.

Q. You went to your own home? A. Yes, sir.

Q. How far is your home from Drummond?

A. About 44 miles.

Q. About 44 miles, did you say? A. Yes, sir.

Q. How did you go?

A. Went by team, by buggy.

Q. By team overland?

(Testimony of Alfred Stewart.)

By Mr. WALSH.—We object to that as being leading.

A. Yes, sir, by team.

Q. How far is Ovando from your home?

A. Five miles, between four and five miles. It isn't hardly five, but still it is over four.

Q. What time did you reach home from Drummond that night?

A. Oh, we got home sometime that night.

Q. You are sure of that? A. Yes, sir.

Q. But you have no recollection, and have so told me what the expenses of that trip were in going from your home to Helena, and return, your railroad expenses, hotel expenses, and paying Mr. Langhorne, and paying your money into the land office?

A. I made a mistake there about going by team. I was thinking about the time I came to prove up. Mr. Opsata and I were together with a horse and cart. We came with a horse and cart and went back the same day.

Q. That don't make any difference. I don't care whether you went by cart or team. Now, I ask you the question, how much money you spent on that trip?

A. Oh, probably spent forty dollars.

Q. That is, both of you?

A. Oh, yes, more than that, both of us.

Q. Each of you spent forty dollars?

A. That is, taking our fees here at the land office and everything in connection.

(Testimony of Alfred Stewart.)

Q. I don't see how you figure that out.

A. Well, that isn't much to spend, when you get away from home.

Q. I am asking you about your legitimate expenses. I wasn't asking you about your seeing the sights of Helena. I have no desire to inquire into that portion of your business. Now, Mr. Stewart, at the time that you filed you gave the names of your witnesses, didn't you? A. Yes, sir.

Q. Would you like to look at the paper for the purpose of refreshing your recollection to find out who they were?

A. No, sir, I don't think it is necessary.

Q. You know who they were, do you?

A. Yes, sir.

Q. State them, please, will you?

A. Mr. Louis Jakways was one and Mr. Opsata was the other.

Q. And who were the others that were published in the printed notice?

A. Mr. Jakways—Mr. Charles A. Jakways and Mr. Griswold.

Q. Those are the four?

A. I think those are the four, yes, sir.

Q. How did you happen to select those four?

A. Well, simply because Mr. Louis Jakways, he was familiar with the property, and so was Mr. Opsata, both of them, and Charles S. Jakways and Mr. Griswold. Mr. Jakways said Mr. Griswold would be in Helena

(Testimony of Alfred Stewart.)

about that time, and consequently we had his name put in, too. That was when we had a conversation about it at Ovando. We agreed that his name should be put in.

Q. So you put in the name of Mr. Griswold without his knowledge or consent? A. Yes, sir.

Q. And with the understanding that he would be in Helena about that time?

A. Yes, sir, I think we were informed by Mr. Jakways or Mr. Faust.

Q. Well, well, that is the way that these witnesses came to be named? A. Yes, sir.

Q. And these are the ones that you put into the land office?

By Mr. WALSH.—We object to that as being a repetition of the testimony of the witness already given.

A. Yes, sir.

Q. Now, as a matter of fact, before you started to Helena, you and Opsata, for the purpose of filing, you got your money to pay your expenses, and to pay Mr. Langhorne.

By Mr. BICKFORD.—We object to that as leading.

A. Yes, sir, I got money from them to pay the expenses.

Q. You borrowed the money from them?

A. Yes, sir.

Q. How much money did you borrow from them?

A. I borrowed forty dollars from them.

(Testimony of Alfred Stewart.)

Q. And you spent it all?

A. I spent it all, yes, sir.

Q. Now, then, did you give them a note for this forty dollars?

By Mr. WALSH.—We object to that as leading.

A. No, sir.

Q. Did you give them anything except your word?

By Mr. WALSH.—We object to that as leading.

A. That is all.

Q. You gave them your word, did you?

A. Yes, sir.

Q. That you would pay it back to them?

By Mr. WALSH.—We object to that as leading.

A. Yes, sir.

Q. When were you going to pay it back to them?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial.

A. Why, the same as I had done ever since I have known them, as soon as I got the money to pay it back.

Q. As soon as you got the money?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial.

A. Yes, sir.

Q. Was there any time fixed with Jakways & Faust, Mr. Cobban's agents, as to when you would pay them? Anything said about that?

By Mr. BICKFORD.—We object to that for the rea-

(Testimony of Alfred Stewart.)

son that it is irrelevant and immaterial and leading, and we object also to the counsel injecting into the question the statement that Jakways & Faust were Cobban's agents, it not appearing so to be from any testimony in the case.

By Mr. MAYNARD.—I will state in answer to that that there is hardly a page in this voluminous record but what does state that Jakways & Faust—but what terms Jakways & Faust, the agents of your client, Mr. Cobban.

Q. Now, Mr. Stewart, when you returned home what did you do next?

A. Explain that, please.

Q. After you returned from Helena, as you have testified with forty dollars of Jakways & Faust's money, did you not immediately thereafter, in a day or two thereafter, go from your home with your wife to Jakways & Faust's store and execute this deed to Mr. Cobban?

By Mr. WALSH.—We object to this upon the ground that the witness has positively stated that he didn't come with Jakways or Faust and didn't return with Jakways or Faust, or with their money, or that he used their money for this purpose, and we object upon the further ground that the question is leading.

By the EXAMINER.—Did you answer the question?

By the WITNESS.—No, sir, I did not.

A. No, sir.

(Testimony of Alfred Stewart.)

Q. You said no, what did you mean by that? Did you ever go to Jakways & Faust's office for the purpose of deeding? A. No, sir.

Q. You did not? A. No, sir.

Q. Then you had a visit from Mr. Jakways at your home, is that it?

By Mr. WALSH.—We object to that as leading.

A. I did from Mr. Faust.

Q. Instead of the mountain coming to Mohamet—instead of Mohamet coming to the mountain, the mountain came to Mohamet?

A. I don't know about that.

Q. Well, now, then, will you please state to me how long it was after you had rejoined your family, after your sojourn in Helena, and the spending of your $40.00 when you had a visit from your friend, Mr. Faust, at which time you and your wife executed a deed to this property?

By Mr. BICKFORD.—We object to this upon the ground that the record doesn't show that the witness has executed a deed of this land to anybody, but as matter of fact, the record shows that he has sold the timber upon the land.

Q. I mean the timber upon the land.

By Mr. BICKFORD.—We object to any testimony from this witness, for the reason that it appears from the record that he never has conveyed land to the defendant as it appears by the bill of complaint, and we

(Testimony of Alfred Stewart.)

move to strike out the testimony relating to the entry made by him, for the reason that it so appears from the record.

By Mr. MAYNARD.—I congratulate my friend on the other side that at last one of their objections has at least some merit in it, and I notice that the bill of complaint charges that the land is conveyed, and I desire to give them notice that at the very first opportunity I shall ask the Court to amend the bill in that particular in order to show that fact.

By Mr. WALSH.—If it is a matter of consequence to counsel for the Government, I will state that we shall oppose that application.

Q. What do you say to that, Mr. Stewart?

A. It was probably two months and a half.

Q. Two months and a half intervened from the time of filing until the making of the deed?

A. Yes, sir.

Q. And before you made the deed?

A. Yes, about that time.

Q. Very well, how long a time was it after you proved up before Mr. Faust visited your home?

A. It must have been in the neighborhood of two weeks. I have that impression.

Q. Two weeks then elapsed between the time of your obtaining—paying the money in and getting the receipt, before you deeded?

By Mr. WALSH.—We object to that for the reason that it is a repetition of the testimony by counsel.

(Testimony of Alfred Stewart.)

A. Yes, sir.

Q. Then, when you were—when you made the deed, you were at your home, were you, or were you at Mr. Faust's store? A. At home.

Q. Now, then, Mr. Stewart, aren't you again mistaken, and instead of it being three weeks between the time you made final proof and the time of the execution of this deed, that it was two or three days?

By Mr. WALSH.—We object to the question for the reason that it is leading and irrelevant and immaterial.

A. No, sir.

Q. You are sure of that?

By Mr. WALSH.—We object to the question for the reason that it is leading and irrelevant and immaterial.

A. Yes, sir.

Q. Now, Mr. Stewart, I read from the original papers: "Alfred Stewart, being called as a witness" and your final testimony being given on the 6th day of September, 1899, do you recognize that? A. Yes, sir.

Q. Now, I read from the receiver's receipt: "Received from Alfred Stewart of the county of Deer Lodge, State of Montana, on the 6th day of September, the sum of $400.00." That is the 6th of September?

A. Yes, sir.

Q. That you paid the money into the land office and got your receipt? A. Yes, sir.

Q. And three days thereafter "This indenture, made

(Testimony of Alfred Stewart.)

the 9th day of September, in the year of our Lord one thousand eight hundred and ninety-nine, between Alfred Stewart of Deer Lodge County, State of Montana, and Catherine Stewart, his wife, of the same place, the parties of the first part, and R. M. Cobban, of Missoula, County of Missoula, State of Montana, the party of the second part, for and in consideration of the sum of $800.00, etc." And that deed you acknowledged before Mr. Faust on the 9th day of September, three days thereafter. Now, what do you think in view of the date of this final receipt and the deed as to whether three weeks lapsed?

A. Well, it is my impression it was over three weeks.

Q. Well, if the record states that it was three days, do you still insist that it was three weeks?

A. I think the paper is wrong.

By Mr. WALSH.—We move to strike out a portion—the matter read by counsel from the papers, for the reason that it is irrelevant and immaterial, and the deed does not show any transfer of the land from the witness to Mr. Cobban.

Adjourned until ten o'clock A. M. March 27, 1902.

Thursday, March 27th, 1902, 10 A. M.

Hearing resumed pursuant to adjournment.

ALFRED STEWART being recalled for further examination testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. When we adjourned last night you were of the

(Testimony of Alfred Stewart.)

impression that the record in the case showing that you deeded the land within three days after you got it, was mistaken?

Mr. WALSH.—We object to this for the reason it does not show that he ever conveyed the land.

A. Yes, sir.

Q. I mean the time he and his wife executed a deed to Cobban for the timber on the land that he entered, after sleeping over the matetr are you still of the same opinion? A. Yes, sir.

Q. You have no recollecion then of Mr. Mackaway or Faust coming out to your place where the deed was executed in fact within two or three days after you returned from Helena? A No, sir.

Q. But you have a recollection of executing the deed, haven't you? A. Yes, sir.

Q. At your home? A. At my home, yes, sir.

Q. And now what do you say is your best recollection as to the time when you did deed?

Mr. BICKFORD.—We object to that for the reason that the witness has heretofore testified in regard to this matter and that the same now is a mere repetition.

A. My recollection is that I signed that deed in the course of about two weeks, as near as I can remember.

Q. Had you seen Mr. Cobban previous to that time; and after you returned home from Helena?

A. No, sir.

Q. Had no conversation with him or no correspondence with him? A. No, sir.

(Testimony of Alfred Stewart.)

Q. Or anybody representing him?

A. Well, I don't really know who was representing him I am sure, not that I am aware of.

Q. Well, did you have a conversation between these dates with anybody?

A. Why, only as I spoke to Mr. Faust about selling the timber and saying that I would take so and so for it, and a certain price.

Q. Where was that?

A. That was at the store, at his own store in Ovando.

Q. When?

A. I think that was, it seems to me in the neighborhood of a week afterwards.

Q. When you say the word "afterwards" you have in mind each time after you returned from Helena, after you had proved up? A. Yes, sir.

Q. Well, now, state the conversation that you had a week afterwards at Jackway & Faust's store?

Mr. WALSH.—We object to this question for the reason that it is irrelevant and immaterial; and for the further reason that it calls for hearsay evidence.

A. Well, we talked about it, and I told him to make arrangements to sell it if he could get a certain price for it; of course I did not restrict him or tell him who he was to sell it to, or make any agreement in that way as to who to sell it to, as the Blackfoot Milling Company had authorized a man to speak to me about it and had spoken to me about it just about that time, wanted to know if I had sold it and I said that I had not sold it.

(Testimony of Alfred Stewart.)

Q. Who was this man?

A. It was Mr. Dixon.

Q. Who is Mr. Dixon?

A. He is a resident of Ovando.

Q. A saloon keeper at Ovando? A. Yes, sir.

Q. What did he say to you?

A. He simply asked me if I had sold it yet; he said the Blackfoot Milling Company would buy it if I had not sold it; I said I had not sold it yet.

Q. Did you take any steps or see the Blackfoot Milling Company about selling after you were informed they would buy?

A. No, sir, I did not; of course, it was impracticable for me to do so, of course, I would have to go down there and I did not feel like taking the journey on that account, he said at the time—

Mr. WALSH.—We object to the conversation with Mr. Dixon for the reason that it is immaterial and irrelevant and for the further reason that it is hearsay.

A. That they would send a man out through there, that there would be a man out through there in a short time.

Q. Was it because of that they said they would send a man out through there, because you did not want to go down to the mill?

A. I could not say that was the reason, I had no idea of going down there, I knew they were buying timber all the time.

Q. You wanted to sell the timber?

(Testimony of Alfred Stewart.)

A. Yes. sir, I did.

Q. Did you make any inquiries of anybody else in regard to the sale of the timber? A. No, sir.

Q. Do you know of any case of the Blackfoot Milling Company buying timber in there during that year?

A. I cannot say that I did.

Q. So all you know about it was what Dixon told you?

Mr. WALSH.—We object to this question for the reason that it is irrelevant and immaterial; and for the further reason it is leading.

Q. The saloon-keeper at Ovando?

A. Yes, of course, I knew they had been buying timber in that country all through there.

Q. Do you know they were buying timber that year?

Mr. WALSH.—We object to this question for the reason that it is incompetent, irrelevant and immaterial and for the further reason that it is leading.

A. I meant it got it right direct from the company through Mr. Dixon.

Q. You said you didn't know that they were buying timber that year? A. Yes, sir, I said that.

Q. Do you mean that? A. Yes, sir.

Q. So then, as a matter of fact, besides what Mr. Dixon told you, you left the entire matter to Messrs. Jackaway & Faust? A. Yes, sir.

Q. You did not know who they were going to sell to?

A. No, sir.

(Testimony of Alfred Stewart.)

Q. Nor who they were locating for?

A. No, sir, I cannot say, I do not know.

Mr. WALSH.—We move to strike out this question and the answer of the witness for the reason that it presupposes a condition of affairs which has not been shown to exist either by the testimony of this witness or any other witness, to wit: that Jackaway & Faust were locating timber for them.

Q. Well, now, then, when I speak of Jackaways & Faust or rather Jackaways or Faust, you do not know who Jackaways was working for or representing?

Mr. WALSH.—We object to this question for the reason that it presupposes a condition of affairs which has not been shown to exist either by the testimony of this witness or any other witness, to wit: that Jackaways & Faust were working for anybody or representing anybody, or that Mr. Jackaways was representing anybody.

A. No, sir, I could not say who he was working for.

Q. But Jackaways and Cobban and Griswold had been on the land estimating before you had filed even?

Mr. WALSH.—We object to this question for the reason it is leading and for the further reason that it calls for a repetition of testimony that has already been given by the witness.

A. Yes, sir.

Q. Well, now then when you went—what did you do

(Testimony of Alfred Stewart.)

between the time of your filing and proving up other than staying at home and working?

A. Why, I did not do anything, not in regard to the matter of the land at all or anything like that.

Q. Did you have any money for the purpose, that would enable you to pay for the land at the time you filed?

Mr. WALSH.—We object to this question for the reason that it is immaterial and irrelevant and for the further reason that it is leading.

A. No, sir.

Q. Did you know where you were going to get the money?

Mr. WALSH.—We object to this question for the reason that it is irrelevant and immaterial and for the further reason that it is leading.

A. Why, yes, I had spoken to Mr. Faust considerable time before that, along in the spring of the year and he had told me that he would furnish the money, and I considered his promise as good.

Q. He told you what?

A. He told me he would furnish the money for me to prove up if I would like to take the land, that was along that spring.

Q. Along that spring?

A. Yes, I would not state exactly the time, but it was a considerable time before I filed on it; this was along, I guess, maybe in April or May sometime about that time.

(Testimony of Alfred Stewart.)

Q. Where were you then?

A. I was in their store at Ovando.

Q. You say he could not let you have the money?

A. He said he would furnish it, I did not make any inquiries about it really how he was going to let me have it; we did not make any very extensive agreement or extensive talk about it at that time, only I understood that from him; I considered that his promise was good, always did.

Q. So you relied on that and made no efforts to get any money from any other source?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. Yes, sir.

Q. For the purpose of paying for your land?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. Yes, sir.

Q. Did you speak to him again after this conversation which you had in regard to the money?

Mr. WALSH.—We object to this question for the reason that it is irrelevant and immaterial and for the further reason that it is leading.

A. Why, I think I did, yes.

Q. When?

A. Well, probably before I got out to file on it, I probably spoke to him.

Q. Was there any other arrangements then made as

(Testimony of Alfred Stewart.)

to your getting it other than the talk that he would let you have it?

A. Nothing only the talk he still consented to let me have the money.

Q. Said he would let you have it when you wanted it?

Mr. WALSH.—We object to this question for the reason that it is irrelevant and immaterial and for the further reason that it is leading. We further object to the repetition of the answer of the witness by counsel.

A. Yes, sir.

Q. Then you came over to Helena and proved up on the 6th of September, 1899?

Mr. WALSH.—We object to this question for the reason that it is leading and for the further reason that it is a repetition of the testimony already given by the witness.

A. Yes, sir.

Q. Who did you come with?

A. I came with Mr. Nels Opsata and Mr. Louis A. Jackaways.

Q. Is Mr. Louis A. Jackaways a member of the firm of Jackaways & Faust?

A. Not that I am aware of, I don't think he is.

Q. What is Mr. Jackaways first name?

A. Of the firm?

Q. Yes?

A. His name is Charles A. Jackaways and I would

(Testimony of Alfred Stewart.)

not be sure the other is Louis A. Jackaways, I have an idea it is, I know his name is Louis anyway, the younger man.

Q. But it was not Charles? A. No, sir.

Q. He came over for what purpose?

A. Came over as a witness.

Q. For you and Opsata? A. Yes, sir.

Q. Now do you know who paid the money into the land office for your land?

A. Well we had a check, combined check, Mr. Opsata and I, and he paid the money.

Q. Who did? A. Mr. Opsata.

Q. What do you mean by combined check?

A. I mean that the amount was all in one check, eight hundred dollars.

Q. Whose check was it?

Mr. WALSH.—We object to that question for the reason that the check itself is the best evidence.

A. It was Jackaways & Faust's check.

Q. Jackaways & Faust's check for eight hundred dollars?

Mr. WALSH.—We object to this question for the reason that the check itself is the best evidence; and we further object to the repetition of the answer of the witness by counsel.

A. Yes, sir.

Q. Who was it made payable to?

Mr. WALSH.—We object to that question for the

(Testimony of Alfred Stewart.)

reason that the check itself is the best evidence as to who it was made payable to.

A. I think it was made payable to—I would not be certain about that, about who it was made payable to, I think it was made payable to the receiver of the land office, still I would not be certain about it.

Q. Well, now, then you had forty dollars of Jackaways and Faust's money to pay your expenses and this check of eight hundred dollars which paid for your land and Opsata's?

Mr. WALSH.—We object to this question for the reason that the witness has not testified to anything of the kind, and for the further reason that the question is leading.

A. Yes.

Mr. WALSH.—He said yes to your question, but he expressly refused to testify to what you said here twice; he told you that when he got the money he considered it was his and not Jackaways & Faust's.

Q. Now, then, did you have to borrow some money to come over the second time?

A. That is when proving up?

Q. Yes?

A. Yes, sir.

Q. How much did you get this time?

A. Well probably twenty-five dollars; I made a mistake I think in stating that it was forty dollars on the start, because I think that was twenty-five dollars, and

(Testimony of Alfred Stewart.)

the next time forty dollars, that is the way it occurs to me this morning in thinking over it again.

Q. What?

A. In thinking over I think that the first time I received twenty-five dollars and the second time forty dollars, that would be sixty-five dollars altogether for proving up and filing.

Q. Did you get this from Jackaways too?

A. Yes, sir.

Q. Now what did you do with that forty dollars besides paying your hotel expenses and railroad fare?

A. Well there is land office fees.

Q. What fees were there?

A. Well I can't remember really what they are; the railroad expenses and stage fare and incidental expenses while a person is in town.

Q. What is that?

A. Expenses connected with a man's living while here and on the road.

Q. Can you remember of making any payment for anything connected with the land proceedings?

A. Yes, sir, I remember paying certain fees, but to state exactly what they were I cannot, that was at the time of proving up.

Q. Do you know how much it was that you paid?

A. Paid into the land office?

Q. Yes? A. As fees?

Q. Yes?

A. No, sir; I cannot say, I do not know.

(Testimony of Alfred Stewart.)

Q. And whether you did pay or not all depends upon the question as to whether there were any fees to be paid in?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. Yes, sir.

Q. And if there were none you did not pay any?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. If there were none I did not pay any.

Q. But you have a clear recollection of having obtained from Jackaways sixty-five dollars?

Mr. WALSH.—We object to this question for the reason that it is leading, and we further object for the reason that it is a repetition of testimony already given by the witness.

A. Yes, sir.

Q. Forty dollars at one time and twenty-five dollars at another?

Mr. WALSH.—We object to this question for the reason that it is leading, and for the further reason that it is a repetition of the testimony already given by the witness.

A. Yes, sir.

Q. Did you give any note or anything for this second loan?

Mr. WALSH.—We object to this question for the reason that it is leading.

(Testimony of Alfred Stewart.)

A. No, sir.

Q. Were the conditions the same as on the preceding loan that you would pay as soon as you could?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. Yes, sir.

Q. Now, you said that this four hundred dollars that was embraced in this eight hundred dollar check was a loan to you?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. Yes, sir.

Q. From Jackaways & Faust?

Mr. WALSH.—We object to this question for the reason it is leading.

A. Yes, sir.

Q. And that it was Jackaways & Faust's money and nobody else's?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. Yes, sir.

Q. Well, did you consider that you owned the land after the money was paid into the land office?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. After the final receipt was issued I did.

Q. And the money that was paid for the land was

(Testimony of Alfred Stewart.)

Jackaways & Faust's money except as you had borrowed it from them?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. Yes, sir.

Q. Now, then, what security did you give them for that four hundred dollars?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. I did not give them any real or personal security, that is in writing or anything like that, only just my promise that I could pay it back.

Q. Well when were you to pay it back?

A. There was nothing stipulated about that either.

Q. Then as I understand you the loan of four hundred dollars and the necessary expenses of sixty-five dollars, which would be four hundred and sixty-five dollars, was loaned to you by the firm of Jackaways & Faust, or Jackaways or Faust, on your word?

Mr. WALSH.—We object to this question for the reason that it is leading; and for the further reason that it is a repetition of the testimony already given by the witness.

A. Yes, sir.

Q. And with the understanding and agreement between you that you would pay it back sometime?

Mr. WALSH.—We object to this question for the rea-

(Testimony of Alfred Stewart.)

son that it is leading, and further that it is a repetition of the testimony already given by the witness.

A. Yes, sir.

Q. Now, then, Mr. Stewart, had you ever borrowed any considerable amount of money from these people before on such terms?

Mr. WALSH.—We object to this question for the reason that it is irrelevant and immaterial; for the further reason that it is leading and for the further reason that it is a repetition of the testimony of the witness which has already been given.

A. No, I can't say I have, not as much as that.

Q. Well, can you remember any sums of money that you had ever borrowed from them before for any reason or for any purpose?

A. Well, I can't say that I can remember any sum, no specific sum, but I know they have loaned me small amounts that I asked for, and have it charged on my account, in that way they would charge my account.

Q. Can you remember any of the times or places or the amounts that you had ever received from them?

Mr. WALSH.—We object to this question for the reason that it is irrelevant and immaterial and for the further reason that it is leading, and for the further reason that it is a repetition of the testimony already given by the witness.

A. No, I cannot say that I can, I had worked for them off and on.

(Testimony of Alfred Stewart.)

Q. Well, you dealt with them, you bought your supplies from them, what you needed for your home didn't you? A. Yes, sir.

Q. Well at the time you borrowed this four hundred and sixty-five dollars from them you were indebted to them for goods had and received, were you not?

Mr. WALSH.—We object to this as leading.

A. I probably was, I had been indebted to them more or less ever since I had been there.

Q. Well, now, Mr. Stewart, if there was no agreement or understanding, not in writing of any kind, but so that you understood it, that you were to, when you got home and after you had proved up and got your receipt, that you were to sell this timber to whoever Jackaways & Faust made arrangements to sell it to as you had left it to them, how would you account for their loaning you four hundred and sixty-five dollars without your giving them any formal security and simply on your word?

A. Why I had been dealing with them off and on, I probably had been from two to three hundred dollars in debt to them and always had paid them, we never had any difficulty in any way at all and I considered that they loaned it to me through kindness to help me along.

Q. That is your answer? A. Yes, sir.

Q. And nothing had been said to you by either of them that you were to convey the timber or sell the

(Testimony of Alfred Stewart.)

timber as soon as might be after your return from Helena?

Mr. WALSH.—We object to this question for the reason that it is leading, and for the further reason that it is a repetition of the testimony which has already been given by the witness.

A. No, sir, neither of them ever said a word to me about that.

Q. How much did you say the value of that timber was?

A. Well I valued it at five hundred dollars.

Q. How much timber was there on the one hundred and sixty acres?

A. Well about five hundred thousand feet I think.

Q. Five hundred thousand feet?

A. Yes, sir.

Q. And what kind of land was it growing on?

A. Well, it was mostly hilly land, rolling.

Q. Hilly land and rolling?

A. Yes, sir; it was hilly, hills on it.

Q. Then it was not mountainous and rocky?

A. It was not mountainous, really, but it has some pretty big hills on it, in fact it was all hills, there was no level ground on it at all of any kind.

Q. Was there any soil, much if any soil on it?

Mr. WALSH.—We object to this question for the reason that it is leading; and for the further reason that it is irrelevant and immaterial.

A. Why, yes, I think there was.

(Testimony of Alfred Stewart.)

Q. What was it good for?

Mr. WALSH.—We object to this question upon the ground that it is immaterial and irrelevant; there is no charge in the bill of complaint that this land was not land that could properly be taken up under the Stone and Timber Act.

A. I guess if it was cleared off it would probably be good for pasture and.

Q. That is what you wanted it for, for pasturage purposes?

Mr. WALSH.—We object to this question upon the ground that it is immaterial, irrelevant and incompetent, there is no charge in the bill of complaint that this land was not land that could properly be taken up under the Timber and Stone Act.

A. Well, yes, principally.

Q. That is what you have used it for since?

Mr. WALSH.—We object to this question for the reason that it is immaterial, irrelevant and incompetent; there is no allegation in the bill of complaint that this land was not land that could properly be taken up under the Timber and Stone Act.

A. It has been used for that, it is not altogether fenced, I have not used it, my neighbors have used it.

Q. For pasture purposes?

A. Yes, sir, running cattle in on it, through it.

Q. Well, is that what you intended to get when you took up the claim?

(Testimony of Alfred Stewart.)

Mr. WALSH.—We object to this question for the reason that it is immaterial, irrelevant and incompetent, and for the further reason that it is leading.

A. Partly, yes.

Q. That is to sell the timber and retain the land?

Mr. WALSH.—We object to that question for the reason that it is immaterial, irrelevant and incompetent; and for the further reason that it is leading, and as containing a statement not made by the witness.

A. I don't know that I did think about that really, about selling the timber or what doing with the timber, but it was my intention to hold the land anyway under any circumstances.

Q. To hold, what do you mean, with the timber on it?

A. Yes, with or without the timber, in any event whether the timber was sold or I removed it myself, or what I did with it.

Q. Now, then, this deal was executed by yourself before Mr. H. J. Faust on the 9th of September, and by your wife, Katherine T. Stewart, as appears from the certified copy of the deed in evidence in this case, do you remember any of the facts and circumstances connected with this execution?

Mr. WALSH.—We object to this on the ground that it has already been gone into on yesterday, and the witness has already answered the question now propounded to him.

A. Yes.

(Testimony of Alfred Stewart.)

Q. Tell me what they were?

A. The circumstances?

Q. Yes?

A. Mr. Faust came to my house and brought another gentleman with him, a Mr. Smith.

Q. What was his name?

A. His name was Smith, I could not tell you, he introduced him as a Mr. Smith, I do not know his initials at all; I was not at home at the time and my wife told them where they would find me; they drove to where I was and I came back home with them and we signed a deed there and they left with the deed.

Q. You say you were not at home?

A. I was not at home when they came.

Q. They waited for you?

A. No, they drove to where I was.

Q. Oh, they drove to where you were?

A. Yes, sir.

Q. Did you sign the deed when they met you?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. No, sir.

Q. Where did you go?

A. I went home with them.

Q. Oh, you went home with them?

A. Yes, sir.

Q. And then you signed the deed?

A. Yes, sir.

(Testimony of Alfred Stewart.)

Q. Had your wife signed the deed before you got home? A. No, sir.

Q. Just where were you when they met you?

A. I was about probably a mile from home, north of where I live.

Q. What were you doing?

A. I wasn't doing anything.

Q. You wasn't doing anything?

A. No, sir; it was Sunday.

Q. Oh, it was Sunday? A. Yes, sir.

Q. And Mr. Faust and Mr. Smith, Mr. Wallace F. Smith, it seems from the deed, drove up and met you in the field?

Mr. WALSH.—We object to this question for the reason that it is leading and for the further reason that it calls for a repetition of testimony already given by the witness.

A. They met me, not on my own place, it was about a mile north and west of my own place on section six when they met me.

Q. What were you doing there?

Mr. WALSH.—We object to this question for the reason that it is irrelevant and immaterial.

A. Myself and my youngest boy went down to the creek, down to what we call Montour creek, and one of my neighbors came along, we were sitting there talking, we finally started home and on the way home we met

(Testimony of Alfred Stewart.)

them, just a little piece after we met the neighbor, probably a quarter of a mile.

Q. What did they say to you when they met you there?

Mr. WALSH.—We object to this question for the reason that it is irrelevant and immaterial.

A. Why, they explained their business with me and I got into the buggy and we rode back with them—I did rather.

Q. What business did they explain to you?

A. They expected me, as Mr. Faust said that he had sold the land, to sign a deed.

Mr. BICKFORD.—Do you mean the land or the timber?

A. The timber rather.

Q. (Mr. MAYNARD.) And you did sign a deed?

A. Yes, sir.

Q. And your wife? A. Yes, sir.

Q. Did they pay you any money?

A. No, sir, not that day, they did not.

Q. Well, how soon thereafter, after you signed, executed and delivered them the deed did they pay you any money?

Mr. WALSH.—We object to this question for the reason that it is immaterial, irrelevant and incompetent.

A. That I am not sure of, really, they never paid me any cash, but I got a credit of twenty-five dollars on

(Testimony of Alfred Stewart.)

my account, besides returning what I borrowed from Mr. Jakaways & Faust.

Q. That is the sixty-five dollars they had advanced you for expenses, they wiped that out?

A. Yes, sir.

Q. And you got a credit on your indebtedness at the store for how much?

A. Twenty-five dollars.

Q. How do you know that?

A. How do I know that I got a credit for that?

Q. Yes.

A. Why, I had it marked on my account, it came to my notice that way.

Q. Twenty-five dollars? A. Yes, sir.

Q. And that is what you got out of the transaction?

A. Yes, sir.

Q. Well, when these people came up there and asked you to sign this deed, who had they sold it to?

Mr. WALSH.—We object to this question for the reason that it is immaterial and irrelevant; hearsay and not the best evidence of the facts sought to be proved.

A. Mr. Cobban.

Q. And that was the first time that you knew that the sale was to be made to Mr. Cobban?

Mr. WALSH.—We object to this question for the reason that it is immaterial, irrelevant and incompetent, and for the further reason that it is leading.

A. Yes, sir, that is the first time I knew it was made to him, or had any intimation of it.

(Testimony of Alfred Stewart.)

Q. What?

A. That is the first I had any intimation of who they sold it to.

Q. And what did they inform you that they had sold?

Mr. WALSH.—We object to this question for the reason that it is immaterial, irrelevant and incompetent; as hearsay, and not the best evidence of the facts sought to be proved; and for the further reason that it is leading.

A. Yes, sir.

Q. What did they say they had sold?

A. They said they had sold the timber, handed me the deed to read to see if it was all right, if I approved of it.

Q. When had you said anything to Jackways & Faust about retaining the land?

A. Why, that was when I spoke to Mr. Faust about selling the timber, I did not give him any authority to sell the land, only the timber.

Q. You did give him authority to sell the timber?

A. Yes, sir.

Q. For what purpose?

A. For five hundred dollars.

Q. Five hundred dollars? A. Yes, sir.

Q. Now, Mr. Stewart, isn't it true that when you were present with Mr. Cobban and Mr. Jackways and Mr. Griswold on the day that they were out there measuring up this timber that Mr. Cobban at that time

(Testimony of Alfred Stewart.)

on that day told you that he would do this; that he would pay all of your expenses in proving up and he would give you the land if you would go and enter it and give him the timber?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. No, sir, we had no such conversation at all, not a word of it.

Q. And wasn't that arrangement made at that time in the presence of Mr. Cobban and Mr. Griswold and Mr. Jackaways?

Mr. WALSH.—We object to this question for the reason it is leading.

A. No, sir.

Q. And you didn't know all the time from the beginning to the end of this transaction that you were to do that very thing which you did do?

Mr. WALSH.—We object to this question for the reason it is leading.

A. No, sir, I didn't intend to do anything of the kind, I didn't know Mr. Cobban at that time; didn't know who he was, was not introduced to him, and didn't know it was Mr. Cobban when he left there until I was told so afterwards.

Q. Do you know Mr. Bruner? A. Yes, sir.

Q. He is a neighbor of yours? A. Yes, sir.

Q. Didn't you know at that time that Mr. Griswold and Mr. Jackaways were trying to buy his land for the same purpose?

(Testimony of Alfred Stewart.)

Mr. WALSH.—We object to this question as entirely irrelevant and immaterial.

A. No, sir.

Q. Didn't know anything about it?

A. No, sir, nothing about it at all, Mr. Bruner is a man that don't tell everybody his business.

Q. And you didn't know anything about what was going on? A. No, sir.

Q. And from the time you first started to take up this land, when you say you got four hundred dollars as you have testified to, and the money was advanced, sixty-five dollars, by Jackaways & Faust, without any security on your part, simply your word, and when you deeded to them within three days after you got home from Helena, that you had given no security of any kind and had made no effort to sell the timber to anybody else; that you did not know at all about any arrangements by which you were to sell to Cobban, or persons that they might direct, and you did not do it for that very purpose?

Mr. WALSH.—We object to this question upon the ground that it recites a large number of things as facts which are positively denied by the testimony of the witness, and it assumes that he has testified to a large number of things which he has not testified to; and because the recital of facts with which the question is introduced are entirely irrelevant and immaterial, to the question which is propounded to the witness, and had nothing whatever to do with it; and upon the fur-

(Testimony of Alfred Stewart.)

ther ground that the question as to whether there was or was not a parol agreement has been repeatedly answered by the witness.

A. No, I did not.

Q. Make the entries for that purpose? A. No.

Cross-examination.

(By Mr. BICKFORD.)

Q. I believe you stated in the first part of your testimony that you had lived in this vicinity for eight or ten years, Mr. Stewart? A. Yes, sir.

Q. Have Jackaways & Faust been in business in that neighborhood during the time you have lived there?

A. Yes, they were there as partners, I think, the year previous to the time I came there.

Q. Are they about the principal merchants in your section of country? A. Yes, sir.

Q. And are they the persons with whom you have dealt during all of this time? A. Yes, sir.

Q. You have never had any difficulty with them about your account?

A. No, sir, never a word.

Q. And you have had a credit as well as a debit account there during this time? A. Yes, sir.

Q I will ask you if as a matter of fact Jackaways & Faust had not also acted in the capacity of a banker to you? A. They had, yes, sir.

Q. That is to say whenever you would have a check or anything of that kind they would cash it for you and give you credit for it? A. Yes, sir.

(Testimony of Alfred Stewart.)

Q. And would lend you money whenever you were in need of it? A. Yes, sir.

Q. Did this course of business extend over the whole time of your dealing with them? A. Yes, sir.

Q. Now, I believe you stated that this land was valuable for the timber on it? A. Yes, I did.

Q. And was it more valuable for the timber than for agricultural purposes?

A. In my estimation it is.

Q. I want to ask you if it has any value for agricultural purposes at all?

A. Well, no, what do you mean; that is for raising crops?

Q. For raising crops generally as a farmer raises crops on a farm?

A. No, sir, I can truly say that in the present state it has none.

Q. Now, will ask you to state if as a matter of fact this land is in such a position as to be capable of irrigation? A. It is not capable of irrigation.

Q. Can you raise general crops in your section of the country without irrigation?

A. No, sir, we cannot raise anything.

Q. Then as a matter of fact for general farming purposes the land is of no value whatever?

A. No, sir.

Q. At the time you went upon this land for the purpose of making your entry of it had you made any timber and stone entry prior to that time?

(Testimony of Alfred Stewart.)

A. No, sir.

Q. You were a citizen of the United States?

A. Yes, sir.

Q. Over twenty-one years old? A. Yes, sir.

Q. Now as I understand you, you said you had been acquainted with this land for a number of years?

A. Yes.

Q. And knew as much about it as anyone could know by going over the surface of it?

A. Yes, sir, I think I do.

Q. How far does it lay from your homestead claim?

A. It lays half a mile.

Q. There are other lands then between your homestead and this claim? A. Yes, sir.

Q. Who is the owner of the land which lies between your timber and stone land and your homestead land?

A Well, I could not really answer that; there is a half section of land on the south side of me. I live on section 8, the northwest quarter of 8, directly south of me there is a half section of land, the south half of that section is owned by parties in the east; I could not state what their names are.

Q. But between your homestead land and this timber land you say there is a half a mile?

A. There is a half a mile, yes, sir.

Q. Is that land you refer to?

A. That half section, the southwest corner of my homestead and the northeast corner of the timber land is directly on line, and the intervening half section be-

(Testimony of Alfred Stewart.)

tween that and my homestead would be here, and the timber would be out here, and then the half mile in there (illustrating).

Q. That land is owned by somebody else you don't know?

A. I don't know the man's name, really, that owns that.

Q. You testified in your sworn statement before the land office at the time when you made your application on June 20th, 1899, "That the land contains no mining or other improvements"? A. Yes, sir.

Q. Nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal?

A. Yes, sir.

Q. "That I have made no other application under said acts; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly made any agreement or contract, or in any way or manner, with any person or persons whomsoever, by which the title I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself." Was that statement true?

A. That statement was true; yes, sir.

Q. At that time you had made no contract or agreement with any person whomsoever? A. No, sir.

Q. It appears from these papers on file here that you are not a native born citizen of the United States?

(Testimony of Alfred Stewart.)

A. No, sir.

Q. But you had declared your intention to become a citizen prior to making this entry? A. Yes, sir.

Q. Now, at the time of your making final proof on the 6th of September,1899, you were asked this question: "Have you sold or transferred your claim since making your sworn statement, or have you directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which you may acquire from the government of the United States may inure in whole or in part, to the benefit of any person except yourself?" To which you answered, "No, sir." Was that answer true?

A. That answer was true.

Q. Question fourteen is as follows: "Do you make this entry in good faith for the appropriation of the land exclusively to your own use and not for the use or benefit of any other person?" Your answer is, "Yes, sir." Was that answer correct? A. It was.

Q. Then you were asked this question: "Has any other person than yourself, or has any firm, corporation, or association any interest in the entry you are now making, or in the land, or in the timber thereon?" To which you answered, "No, sir." Was that correct?

A. Yes, sir, that is correct.

Q. Now, as I understand you, you are still the owner of the land? A. Yes, sir.

Q. You testified in your examination in chief concerning having met Mr. Jackaways at the time when he

(Testimony of Alfred Stewart.)

was going to this particular tract of land and there asking you to show them the lines or the corners of the land? A. Yes, sir.

Q. Was that prior to your filing upon this land?

A. Yes, sir.

Q. Well, at the time when you went upon this land what took place between you and Mr. Jackaways with reference to showing them the corners or anything else at that time?

A. Why there was; he asked me if I would go with them to locate the corners, if I knew anything about them, I told them I knew where two of them were.

Q. Did you go and show them these corners?

A. I showed them—when I first saw them they were out at that corner, one corner, the northeast corner; then we went south along the east side to that corner, we could not find that; we did not go hardly far enough; we went within a hundred yards of where the corner was; if we had went a hundred yards farther we would have went right on to it; it stood up in plain sight on the ground but I had never seen it before that; finally we went around and came back again on the north side, then along that side; we did not go to the corner; I told Mr. Jackaways, pointed out just where that corner stood and he said it was not necessary to go down there.

Q. At this time had you made up your mind to enter this land? A. I had quite a while before that.

Q. Was there any conversation between you and

(Testimony of Alfred Stewart.)

Cobban and Mr. Griswold about entering this land at that time?

A. At that time, no, sir; there wasn't a word.

Q. No contract or agreement made or anything said about the entering of the land by you at all?

A. No, sir.

Q. Then you did not at that time have any bargain or agreement with them with reference to the entry of this land? A. No, sir.

Q. When was it that you next took any steps with reference to the entering of this land under the timber and stone law?

A. Well, it was probably a few days after that.

Q. Did you see Mr. Griswold there on that day.

A. Yes, sir.

Q. Did you have any talk with him about entering this land? A. No, sir.

Q. Is this the same Mr. Griswold who has been prompting counsel upon the other side and who is sitting here in the room?

A. Yes, sir, that is the gentleman.

Q. You had no talk with him whatever concerning this land or the entry of it or the sale of it, at that time?

A. No, sir.

Q. How long have you known this man Griswold?

A. Well, I have known Mr. Griswold by sight for a number of years.

Q. Where has he been living during that itme?

A. He was living at Clearwater when I first knew him

(Testimony of Alfred Stewart.)

Q. (Mr. MAYNARD.) How far is Clearwater from your home?

A. Well, it is in the neighborhood of twenty or twenty-five miles, I am not just certain.

Q. (Mr. BICKFORD.) Do you know what his reputation is in the community in which he has lived for truth and veracity, honesty and integrity?

A. No, sir, I canont say that I do.

Q. You could not testify as to that?

A. No, sir.

Q. You say you went to Helena to file upon this land in connection with Opsata? A. Yes, sir.

Q. Now, at the time when you went with Opsata or started to go to Helena, did you consider it anything unusual or out of the usual line of business that you had been doing with the firm of Jackaways & Faust, to borrow from them the sum of twenty-five dollars, or forty dollars, whatever it may be?

A. No, sir, I did not.

Q. This then was in line with other business transactions which you had had with them theretofore?

A. Yes, sir.

Q. Now, after you came back from Helena and before making your final proof upon the land, did you have any talk with Jackaways & Faust or with any other persons with reference to selling the land to anyone? A. You mean after I went to file?

Q. Between the time of filing and the time you made your final proof?

(Testimony of Alfred Stewart.)

A. No, sir, I do not remember ever saying a word to any person between the time I filed and the time I proved up.

Q. As a matter of fact then at the time when you made your final proof you had arranged with Jackaways and Faust to furnish you with money with which to make final proof?

A. Yes, sir.

Q. Was that as a loan?

A. Yes, that was as a loan; that is the way I considered it.

Q. Did Jackaways & Faust ever ask you for a mortgage upon this land to secure the loan of this money?

Q. You would have been willing to have given it to them if they had, would you not?

A. That is after I proved up I would.

Q. I mean after you had proved up?

A. If they had asked me anything of that description I would have been wiling to give it, certainly.

Q. But they made no such request of you as I understand it? A. No, sir, they made no request.

Q. Nor did they make any request of you to sell the land to any person? A. No, they did not.

Q. The proposition of selling the timber upon this land was made by you yourself after the final proof to Jackaways & Faust? A. Yes, sir.

Q. What did you say to them at that time?

A. I cannot recall the exact words, only we talked the matter over, Mr. Faust and I, and I told him to sell it for a certain price.

(Testimony of Alfred Stewart.)

Q. And the price was what?

A. Five hundred dollars.

Q. You were willing to part with the title to the timber on this land for five hundred dollars?

A. Yes, sir.

Q. Then when you testified a little while ago that you got a credit of twenty-five dollars on your account at the store for this four hundred dollars had been charged up against you or the four hundred and sixty-five dollars had been charged up against you?

A. No, sir, I did not mean that.

Q. What did you mean?

A. I meant that I had that twenty-five dollars over and above what was coming to me.

Q. Well, that is to say you paid back the four hundred dollars you paid for the land? A. Yes, sir.

Q. And the sixty-five dollars that they gave you on expense account?

A. Yes, sir.

Q. And you got twenty-five dollars over and above that as a credit? A. Yes, sir.

Q. That would make then the full price of five hundred dollars you got for the land?

A. No, hardly.

Q. That would make in all the sum of four hundred and ninety dollars instead of five hundred?

A. Yes, and Mr. Faust would have a commission of about ten dollars.

(Testimony of Alfred Stewart.)

Q. A commission of ten dollars for transacting the business for you? A. Yes, sir.

Q. Then, you calculated that you got for your timber the sum of five hundred dollars? A. Yes, sir.

Q. They spoke to you about a man by the name of Bruner; do you know anything about any transaction concerning Mr. Bruner or his timber or his timber land?

A. No, sir, I know nothing about his business at all in any way.

Q. Never had any talk with Mr. Bruner about this land of yours, have you?

A. No, sir, I did not.

Q. Have you ever had any talk with anybody in which you have said that way intended to sell this land after you made final proof?

A. Not that I am aware of.

ALFRED STEWART.

Subscribed and sworn to before me this 28th day of March, A. D. 1902.

HENRY N. BLAKE,
Examiner.

CHAUNCEY L. GRISWOLD, a witness on behalf of the complainant, being recalled for further examination, testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. Mr. Griswold, have you heard the testimony of this man that has just left the stand?

(Testimony of Chauncey L. Griswold.)

A. I have, yes, sir.

Q. I wish you would go on and tell the facts of the case.

A. Well, the facts of the case are that Mr. Jackaways and Mr. Cobban and myself went onto this land at or near the northwest corner; met Mr. Stewart, who said that he was taking his child to the district school, that he would be back in a short time, and my recollection is that he requested us to wait for him there at the corner where Mr. Bruner had a cabin, and I believe we waited there for him until he returned, then he went with us through the land as he has already described.

Q. Just go on and tell the whole story, please?

A. We went through the land and looked at the timber and Mr. Cobban and I did not agree on the estimate, Mr. Cobban thought there was about fifty thousand more than I did, or at least he saw fifty thousand more than I claimed, Mr. Cobban thought that there was about five hundred thousand, I thought there was about four hundred and fifty thousand, and going down onto what would be termed near the northwest corner of the section or the piece of land, we stopped there and talked the matter over, and there was an agreement as fair and binding as any agreement could be between two men in the presence of witnesses without a written agreement.

Mr. WALSH.—We object to the witness telling about any agreement; if any conversation was had he can

(Testimony of Chauncey L. Griswold.)

tell what the conversation was, we are not bound by his views as to what constitutes an agreement.

(Answer continued.) That Mr. Stewart was to go on and complete final proof upon this piece of land under the Timber and Stone Act and give Mr. Cobban a contract or a deed to the timber and stone on the land and Mr. Stewart was to have the land for pasture purposes.

Q. And who was to furnish all the money that was necessary to do this?

Mr. WALSH.—We object to this question for the reason it is leading.

A. Mr. R. M. Cobban.

Q. What did you hear Mr. Cobban say to Mr. Stewart?

A. I heard Mr. Cobban say to Mr. Stewart that he should go to Jackaways & Faust in Ovando and obtain the money to pay his expenses for coming to Helena to make the filing on this land, afterwards to get money from them that he deposited there for this purpose to make his final proof.

Q. You heard Mr. R. M. Cobban tell Mr. Stewart these words?

Mr. WALSH.—We object to this question for the reason it is leading; and we further object to the repetition of the testimony of the witness by counsel.

A. Yes, sir, it was talked over in the presence of Mr. Jackaways and myself, between Mr. Cobban and Mr. Stewart.

(Testimony of Chauncey L. Griswold.)

Q. The four of you were present?

Mr. WALSH.—We object to this question as leading and we further object to the repetition of the answer of the witness by counsel.

Q. And just who were again—Jackaways and Faust, what were they doing for Cobban?

Mr. WALSH.—We object to this question for the reason that the witness has already testified to all this before.

A. They were acting as agents, handling Mr. Cobban's money and defraying expenses of the different entrymen and entrywomen in that vicinity.

Mr. WALSH.—We move to strike out the testimony of the witness for the reason that it is hearsay.

Q. How many people are you able to state, Mr. Griswold, made these entries under the Stone and Timber Act, that live in that vicinity, under the same arrangement?

Mr. WALSH.—We have not any objection to the recall of this witness for the purpose of covering any particular portions of his testimony that was not covered in the other examination, in his examination in chief, but we insist that the time has gone by within which the Government has a right to put in its testimony in this case and no stipulation has been entered into with reference to putting in testimony on the part of Mr. Griswold; we do not, however, object to the counsel examining Mr. Griswold concerning any particular

(Testimony of Chauncey L. Griswold.)

features that were accidentally omitted in the course of his original examination, but Mr. Griswold testified with reference to this matter when he was upon the stand before and we object now to any further examination upon this point upon the ground that the time has gone by within which the Government was to put in his testimony.

Mr. MAYNARD.—We have no desire to traverse the same ground at all, but just simply to cover the point made by my friend, Mr. Walsh, those things which were accidentally omitted and that which has not been brought out.

Mr. WALSH.—It was not accidentally omitted to inquire as to how many of the people around Ovando made timber and stone entries, because that matter was gone into fully.

Mr. MAYNARD.—If the record shows that to be a fact, why, then, all right, but I do not think it does specify the names, besides the testimony is whether, as to each one of the witnesses around Ovando who made proof, and it would not be helping it out in any way by saying that there was, say ten, twenty or forty instances, or which one of the entrymen or entrywomen whose entries are complained of as shown by the evidence.

A. (The WITNESS.) Well, do you want the names of each one, Mr. Maynard?

Q. The number, that is all. I do not mean with

(Testimony of Chauncey L. Griswold.)

reference to conveying the timber, but to conveying the entire—

Mr. WALSH.—We object to this question also for the reason that it calls for a comparison by the witness as to whether the entries were made under the same arrangement, no terms are given.

A. My recollection is there were about fifteen different entrymen or entrywomen took up this land, not under the same condition Mr. Stewart took his, but they were to transfer the whole entire interest they might acquire from the Government, to Mr. Cobban for and in consideration of his furnishing money to defray the expenses of acquiring title and one hundred dollars in addition thereto.

Q. Now, then, did you hear yesterday the testimony of Mrs. Wells? A. I did.

Q. There is just one or two points I desire to call your attention to; Mrs. Wells said that she led you to believe that she was taking up this stone and timber claim of hers—you thought that she was to convey to Cobban; I would like to have you tell us about what you know about that matter?

A. Well, I have no recollection of Mrs. Wells giving me the impression that she did intend to convey to Mr. Cobban.

Q. Tell us about the Wells' claim, Mr. Griswold, in your own way?

A. Mr. and Mrs. Wells were friends of mine and have been ever since I have been at Clearwater; I think

(Testimony of Chauncey L. Griswold.)

since 1895, I have had more or less dealing with them back and forth all the time, and we have been upon friendly terms, both his wife and my wife and myself and Mr. Wells; we have no children; there is just four of us, and at or about this time, I think about a short time prior to the time of Mrs. Wells making this location I sold my place at Clearwater and my wife moved to Missoula, she living there, and Mr. Wells place at or near Woodworth was more convenient for me in making these selections; therefore, I made that my headquarters, and during my stay there Mr. and Mrs. Wells made some suggestions to me that they would like to take a claim, and Mr. Wells had given, I think I directed Mr. Wells to go to Jackaways, and he did make a location on section 22, 15 north, and 13 west, is my recollection, and after that they spoke to me, I think collectively, I think, Mr. and Mrs. Wells, about locating her, and I told them the first good claim I found I would give them descriptions of it, which I done.

Mr. WALSH.—We object to all this and move to strike out the answer of the witness on the ground that it is irrelevant and immaterial and not responsive to any question propounded by counsel and for the further reason that it is hearsay.

(Answer continued.) I was looking out land for the Dodds and Watsons in section 6, 8, 4 and 18, township 14 north, range 13 west; we found what I considered a good claim in section 8, and gave Mr. and Mrs. Wells the number of it, upon which she filed and subsequently

(Testimony of Chauncey L. Griswold.)

made final proof; there was nothing said to her about me furnishing or anybody else furnishing the money, that I remember of, or to defray any expenses in any way or manner.

Mr. WALSH.—We object to this further answer of the witness and move to strike it out on the ground and for the reason that it is irrelevant and immaterial and not responsive to any question propounded by counsel; and for the further reason that it is hearsay.

Q. Well, did Mr. Cobban know about these claims?

Mr. WALSH.—We object to this question for the reason that it is immaterial, irrelevant and incompetent, and for the further reason that it is leading.

A. He did.

Q. State what you know about that?

A. About this one particular claim?

Q. Yes, Mr. Cobban's knowledge of it, what he said to you in regard to the matter and what you did by reason of what he said to you?

Mr. WALSH.—We object to this question for the reason that it is immaterial, irrelevant and incompetent; and for the further reason that it is hearsay.

A. My recollection is that the first knowledge that Mr. Cobban had of this one particular claim that Mrs. Wells took up in section 8, was during the time I was in Pennsylvania on a visit that Mr. M. B. Watson; currency, money that was in Mr. Cobban's hands, my due in payment of this location together with one that

(Testimony of Chauncey L. Griswold.)

he made for himself, his wife, his mother and father and some of the Dodds who were his relations, I think he claimed about eighty dollars at that time; Mr. Cobban heard of this location—

Mr. WALSH.—We object to this because it is evidently hearsay from the fact that the witness testifies he was in Pennsylvania at the time; and for the further reason that it is irrelevant and immaterial; we therefore move to strike the testimony from the files.

(Answer continued.) I found it out as soon as I got back to Missoula in three weeks that I had to pay Mr. Watson.

Q. Go on, Mr. Griswold?

A. Then Mr. Cobban came to me and said—

Mr. WALSH.—We object to any conversation between Cobban and the witness or any testimony concerning it.

(Answer continued.) To make this connect right through—after this man brought suit against me in the matter of the currency, I went to Mr. Cobban to talk the matter over with him and I told him I would not pay it.

Mr. WALSH.—We object to any conversation between Cobban and the witness or any testimony concerning it.

(Answer continued.) That I had made no agreement or arrangements with Mr. Watson whereby I was to pay him one single cent, further than that I had

(Testimony of Chauncey L. Griswold.)

agreed with him that I would pay him a fair compensation for locating the claim in section 8, which was subsequently taken by Mr. Wells, and I started out to obtain counsel, but before I got to the door Mr. Cobban called me back and would not allow me to get into any controversy, into law in regard to these claims, said he would not stand it, could not stand it—

Mr. WALSH.—We move to strike this out for the reason that it is hearsay, irrelevant and immaterial, not pertinent to any issue in the case and because it is not responsive to any question of counsel.

(Answer continued.) And I started out to obtain counsel to contest this claim Mr. Watson made against me for locating these people and Mr. Cobban would not allow it, said he could not have it, did not want it done, did not want this thing brought out in the courts, did not want any more notoriety in this than was necessary, and I presume more than anything else to shield Mr. Cobban, I did pay Mr. Watson, my recollection is something over a hundred dollars.

Mr. WALSH.—We move to strike out the statement of the witness "more than anything else to shield Mr. Cobban," for the reason it is incompetent, irrelevant and immaterial, and has no bearing whatever upon the issues in this case.

By the WITNESS.—That is true, nevertheless.

Mr. WALSH.—We move to strike out the statement of the witness "That is true nevertheless."

(Testimony of Chauncey L. Griswold.)

Q. Go on, Mr. Griswold.

A. Subsequently, Mr. Cobban came to me to inquire about these claims, that is the claims of Louis A. Wells and Lizzie A. Wells, and wanted to know why I had not acquired title to them; I told Mr. Cobban I had no claim, had made no agreement of any kind binding these two people to give these claims to him or to sell them to him, had furnished them no money or anything of the kind, and Mr. Cobban asked me if I could get them; well, I told him I did not know but I would try, that I would go and see the people and talk to them, which I afterwards did. He gave me a check in Missoula for one thousand dollars on the First National Bank and directed me to go and tender it to Mr. Wells in payment of their two claims in the month of November, 1899, I laid the check on the table, showed it to them, to my recollection, and they would not take it; said there was no use of making any such proposition because they would not have it. I talked with them further on the matter and they agreed with me then and there to go to Missoula, my recollection is the next day, Mr. Wells told me he wanted to go round the camp and get statements, do all his business at one time while he was down on this trip. They went down there and the result is that they did transfer this land to Mr. Cobban.

Q. Do you know how much they got?

A. I do not, no, sir.

Q. I call your attention now to the receiving of the

(Testimony of Chauncey L. Griswold.)

telegram that Mrs. Wells spoke about yesterday on the train? A. Yes, sir.

Q. From Mr. Cobban? A. Yes, sir.

Q. Tell what the facts and circumstances were which led to the sending of that telegram, if you know?

A. The conditions of that were, that I was a witness advertised for Mrs. Wells in making her final proof, and my recollection is that I was here in Helena on some other business and met them when they came in from Missoula in the evening of the day prior to the time they made final proof, and I asked Mr. Wells how he was fixed financially; he says all right; I says I am glad of it for I am broke; he says are you broke; I says yes, and my recollection is right there and then Mr. Wells gave me five dollars, but I had directions from Mr. Cobban at that time.

Mr. WALSH.—We object to this witness testifying as to any directions he may have had from Mr. Cobban as not being pertinent to any of the issues in this case.

(Answer continued.) To acquire money from the Collins Land Company to pay for the Lizzie A. Wells final proof, but they having money of their own I did not need it, did not have to get it, and on my way home from here to Missoula, in company with Mr. and Mrs. Wells, at or near Elliston, in the dining-car where we were taking lunch, the conductor came in and wanted to know if there was a man in there by the name of C. L. Griswold, and my recollection is Mr. Wells says, "Yes, here

(Testimony of Chauncey L. Griswold.)

he is"; and that he then and there handed me this telegram; charged me sixty-five cents, which I paid upon it, and read it, and the purport of the telegram was that I should not furnish any money in the Wells final proof.

Mr. WALSH.—We object to this because the telegram itself is the best evidence of the facts sought to be testified to.

(Answer continued.) Until I was sure of acquiring the land prior to the time of furnishing money.

Q. Right here you may state, Mr. Griswold, as to whether or not you have a copy of that telegram that was handed you?

Mr. WALSH.—We object to this for the reason that it is immaterial, irrelevant and incompetent; the only evidence of the telegram being sent so as to charge even Mr. Cobban, much less the defendant, is the original telegram sent by Mr. Cobban and delivered for transmission, and not a copy of the telegram handed the witness by the conductor, if it was a copy of the telegram. And in view of these circumstances the loss or destruction of the paper handed to the witness by the conductor is immaterial and irrelevant.

A. I have not a copy of the telegram in my possession, it is lost or destroyed some way; I have tried to get a copy from the Western Union Telegraph Company—

Mr. WALSH.—We move to strike out the statement of the witness that he has tried to get a copy from the

(Testimony of Chauncey L. Griswold.)

Western Union Telegraph Company as not being responsive to any question; and for the further reason that it is immaterial and irrelevant.

A. They informed me—

Mr. WALSH.—We object to the witness giving any testimony at all as to what the Western Union Telegraph Company informed him; the testimony of the Wsetern Union Telegraph Company being the better evidence than the testimony of this witness as to what they informed him.

A. The Western Union Teleraph Company informed me that a copy of a telegram was kept for six months and then all are destroyed, therefore I have no possible way of obtaining a copy.

Mr. WALSH.—We move to strike out the statement of the witness as to what the Western Union Telegraph Company told him.

A. I have a record here in my memorandum book, to the best of my recollection I think it is here—no, I believe I cannot find it—where I have charged Mr. Cobban with sixty-five cents for a telegram received.

Mr. WALSH.—We move to strike out this statement of the witness on the ground that it is irrelevant and immaterial and not responsive to any question propounded to him and not apparently pertinent to the testimony that has already been given by the witness concerning the telegram.

Q. And you had a conversation with Mr. Cobban

(Testimony of Chauncey L. Griswold.)

afterwards in regard to the subject matter of this telegram?

A. No, sir, I would recall that answer, I believe that I did say to him—

Mr. WALSH.—We object to this for the reason that it is hearsay; and for the further reason that it is irrelevant and immaterial.

A. —In Missoula that his telegram was a little late, as I had not received it until after final proof had been made and we were nearly home, had a good start on the way home.

Q. Well, the counsel on the other side showed Mrs. Lizzie Wells a receipt for thirty-five dollars yesterday which you examined, I think? A. Yes, sir.

Q. You may state as to what your recollection is as to that matter, if you have any?

A. I have no recollection of ever paying Mrs. Wells or Mr. Wells either, one cent of money in any way connected with these claims. I have, of course, paid my stopping bills there at their house, the Wells Lodging House, meals, lodging, horse feed and beef bills when I would buy beef from them, and further than that I have no recollection of ever paying Mrs. Wells one cent; I would not like to positively swear that I did not do it.

Q. Outside of these two Wells claims, Mr. Griswold, Mr. and Mrs. Wells, who, if any of the defendants, or entrymen or entrywomen, whose names appear in the bill of complaint in this case, made their entries to your

(Testimony of Chauncey L. Griswold.)

knowledge with any such facts as in the Wells case; do you know of any of them?

Mr. WALSH.—We object to this as immaterial, irrelevant and incompetent, and the matter of the facts and circumstances, connected with any other entries other than those mentioned in the bill of complaint being manifestly irrelevant and immaterial, and also because it does not ask the witness for any fact but asks for simply his conclusion as to the resemblance between the facts in certain other cases and the facts in the Wells case.

Q. Do you understand my question?

A. Yes, sir, I do thoroughly. Of the land that has been transferred by different entrymen and entrywomen to Cobban and subsequently from Cobban to Clark, to my knowledge positively there has not been one single entry made under the same conditions that the two Wells claims were made.

Q. But under what conditions were they made to your own knowledge or that which came directly to you through Cobban, or through men that were working for him?

Mr. WALSH.—We object to that question as calling for a statement of the witness concerning each of the entries mentioned in the bill of complaint, together with a large number of other entries concerning which the witness has already testified so far as he has any knowledge or claimed to have any knowledge of them.

A. The entries were made with the express under-

(Testimony of Chauncey L. Griswold.)

standing between the different entrymen and entrywomen, with either myself or men that were in my employ, that Mr. Cobban through his agents was to furnish money to defray all expenses in acquiring title to these several descriptions of land, which had been entered and taken up under the Timber and Stone Act.

Q. And furthermore, what, if anything, were they to receive?

A. They were to receive one hundred dollars over and above expenses for and in consideration of their transferring the land to Mr. R. M. Cobban.

Mr. WALSH.—Now, we move to strike out the answer of the witness and the whole thereof for the reason that it is not responsive to any question propounded by counsel; for the further reason that it is a repetition of testimony heretofore given by the witness in which he has stated that he has specific knowledge with reference to some entries and has no knowledge with reference to others; and as a deduction of the testimony that has heretofore been given by the witness in that he has testified that some of the entries were made in good faith, and to his knowledge were made in good faith and without any agreement to transfer the land, and in other cases the witness has heretofore testified that there was an agreement and has specified those cases in which there was no agreement and those cases in which there was an agreement to his knowledge.

Q. And when were these conveyances to be made by the entrymen?

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—We object to this question for the reason that it calls for a repetition of testimony heretofore given by the witness in which he has stated that he has specific knowledge with reference to some entries and has no knowledge with reference to others; and as a deduction of the testimony of the witness that has heretofore been given, in that he has testified that some of the entries were made in good faith, and to his knowledge were made in good faith and without any agreement to transfer the land; and in other cases the witness has heretofore testified that there was an agreement, and has specified those cases in which there was no agreement and those cases in which there was an agreement to his knowledge, for the further reason that it is immaterial and irrelevant.

A. Made after final proof had been completed.

Q. Do you know of any single case where any security of any kind, even a personal note, was given by any of these entrymen or entrywomen?

A. No, sir, I don't know of one single particluar where anything of the kind was given.

Mr. WALSH.—Now, we move to strike out the answer of the witness for the reason that the same is irrelevant and immaterial, because the fact to which he has testified could exist without his knowledge as well as with it; because it does not appear from the testimony of the witness or from the testimony of any witness that this witness knew all of the transactions con-

(Testimony of Chauncey L. Griswold.)

cerning the alleged unlawful entries, and because of the fact that the witness does not know concerning the giving of notes, is not proof that such notes were not given.

Q. What was the fact so far as you know?

A. So far as I know the fact was: Mr. Cobban came to my place at Clearwater and deposited in my hands different sums of money, ranging from one to three or four hundred dollars, from time to time, for the purpose of defraying the expenses of the different entrymen and entrywomen to go and make their application to purchase; and at one time in the town of Ovando Mr. Cobban did give me $2740 for the purpose of coming to Helena and making final proof, or as a witness for final proof of different people, and this money was to be used in defraying their expenses in paying into the land office what was required by the receiver of public moneys.

Mr. WALSH.—Now, we move to strike this answer of the witness out for the reason that it is a repetition of testimony heretofore given by the witness; because it is irrelevant and immaterial and not responsive to any question propounded by counsel; and for the further reason that the witness has not designated any particular person or persons as being the ones for whom money was paid, and as evidently trying to discredit all entries made by a general statement, which, if admissible at all would be admissible as against some specific person; and does not state or attempt to state the time, or the place, or the persons with whom the transaction was connected.

(Testimony of Chauncey L. Griswold.)

Q. Now, Mr. Griswold, what security did you have or did Mr. Cobban have, if you remember, in paying out all these large sums of money to these entrymen and entrywomen for their use and benefit other than the confidence that you had in their word that they would do as they had agreed to do and immediately convey the land?

Mr. WALSH.—We object to this question for the reason that it calls for a repetition of testimony already given by the witness and for the further reason that it is irrelevant and immaterial.

A. That is the only security that I or Mr. Cobban either had was simply the promise of these parties that they would transfer, and in paying the money into the land office in all cases either Mr. Cobban or myself or one of his agents obtained possession of the final receiver's receipt, duplicate receipt, thereby prohibiting or leaving the entrymen and women in such a position that they could not transfer the land, they had nothing to show they had any land in any way; that was my understanding.

Q. And they could not obtain patent from the local land office until they produced this final receipt or a copy of it.

Mr. WALSH.—We object to this question for the reason that it calls for the repetition of testimony already given by the witness; and for the further reason that it is immaterial and irrelevant.

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—Now, we move to strike out this answer—

Mr. MAYNARD.—I will consent to the striking out of the answer.

Q. Now, then, in regard to the payment for these notices of publication, you may state as to whether or not during the time that you were getting these men and women to make these entries you paid in to the manager of the "Garnet Mining News" money for that purpose?

Mr. WALSH.—We object to this question as irrelevant and immaterial, it being a provision of the law that it is the duty of the entrymen or entrywomen to pay for the publishing of the notices, and that the same may be done by either the entrymen or entrywomen themselves or by any one in their behalf.

A. I surely did.

Q. Can you give from the original book in your possession the particular and exact sums that you paid?

A. I only find a record of one payment that I made, to the "Garnet Mining News" in my book, but I have a distinct recollection of two others besides that that I did pay.

Mr. WALSH.—We object to this because it appears that these payments were made by check, the check itself being the best evidence; further that the question does not call for any testimony with regard to any special or particular entry and it does not appear that

(Testimony of Chauncey L. Griswold.)

it is pertinent to the issues in this case, because no particular person is named, because the question calls for testimony as to payment involved, not in regard to any particular entry; for the further reason that the remittances were made by letter and the letter itself would be the best evidence as to the purpose for which the payments were made.

A. I have a record in my book here with regard to one payment made to the "Garnet Mining News," John H. Cole, editor and manager, $62.20, and at other times, whether prior or after that I could not say, one payment of seventy-five dollars and another one of eighty-two fifty, and these payments were made I will absolutely swear in payment for at least two advertisements made for the Dodds and two more for the Watsons, and it will appear on the statement that Mr. Cobban obtained from me in settlement of our difficulty over in Missoula.

Q. How were these payments made, Mr. Griswold?

A. Two of the payments were made by draft from the First National Bank in Missoula, and my recollection is that one of them was made from Helena in a check from R. M. Cobban himself, enclosed in a letter and sent to Mr. Cole, who was Editor and Manager of the Garnet Mining News.

Mr. WALSH.—We move to strike out the statement of the witness, "That one of them was made from Helena in a check from R. M. Cobban himself" for the rea-

(Testimony of Chauncey L. Griswold.)

son that the check itself is the best evidence of the facts sought to be adduced.

Q. Where did you get the money to buy these drafts you sent to the "Garnet Mining News"?

A. I got it from R. M. Cobban at his office in Missoula for this express purpose and sent this money under his explicit direction.

Q. Did you know of the fact that the publications were going on in the "Garnet Mining News" for entries that were made by these defendants here?

A. I did; yes, sir.

Q. When I speak of defendants, I mean of the entrymen and entrywomen that are named in the bill of complaint.

Mr. WALSH.—We object to that question on the ground that it is leading.

A. I did.

Q. Did you pay any money into the "Missoulian" office in Missoula?

Mr. WALSH.—We object to that question on the ground that it is leading.

A. I did, yes, sir.

Q. Have you any recollection as to the sums that you paid into the office of the "Missoulian"?

A. I have not, I know that I paid for—my recollection is three advertisements in the "Missoulian," and I have in my possession in the city of Helena at the present time, a receipt for one of those payments and will produce it if I can send over to the room for my grip.

(Testimony of Chauncey L. Griswold.)

Q. I would like to call your attention now to the witness John B. Reeve, do you know that man?

A. I am sorry to say that I do, yes sir.

Q. Did you hear his testimony here that he gave before the Examiner? A. I did.

Thereupon further hearing was continued until two o'clock P. M.

Thursday, March 27th, 1902, 2 P. M.

Hearing resumed pursuant to adjournment.

C. L. GRISWOLD, a witness heretofore examined on behalf of complainant, being again called to the stand, testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. Just before recess, Mr. Griswold, we had taken up the—we were about to consider the testimony of Mr. John B. Reeve, from Idaho, and the Idaho witnesses. Now, I desire to have you, in your own way, please, after having heard these statements, made by him, and his testimony as to how he came to take up these claims, saying that he saw you and made arrangements with you, I would like to have your version of that matter, stating in your own way, and take as much time as you want to at it.

A. I acknowledged the fact that Mr. Reeve did come to me at Missoula and was anxious in regard to taking up these claims. At that time he said he wanted six claims for himself and wife, and his two daughters and

(Testimony of Chauncey L. Griswold.)

sons in law. I told him that I wasn't at that prepared to make any agreement with him, and directed him to go to Mr. Cobban.

Q. Now just state right here, Mr. Griswold, please, just why you were not prepared to make any agreement with him?

A. Simply because I knew the man.

Q. What did you know about him?

By Mr. WALSH.—We object to that as being irrelevant and immaterial.

A. I mean that I wouldn't believe him under oath, and didn't want to have any transactions with him in any way, shape or manner. I knew of him in Wisconsin before he left Wisconsin; knew him there, and knew him when he worked at the trade of barber, and he came to Montana, and met Mr. Millard. I think it was in 1894, and said that he had a ranch rented over in the vicinity of Elliston and Avon, Deer Lodge County, and from my knowledge of him and what Mr. Millard told me about him, I didn't want anything to do with him, I didn't want any agreement with him.

By Mr. WALSH.—We object to what Mr. Millard said to the witness, for the reason that it is hearsay and also irrelevant and immaterial and we move to strike out the testimony of the witness for that reason.

Q. You may state, Mr. Griswold, as to whether or not in your trying to faithfully serve Mr Cobban, for whom you had entered into this contract, and knowing that you had only—the only security that you had was

(Testimony of Chauncey L. Griswold.)

the men and women that you would select to go on, and whose words you could believe as to whether or not you had that in mind at the time that you declined to have anything to do with Mr. Reeve.

By Mr. WALSH.—We object to that as leading, and as suggesting the answer to the witness, and the kind of an answer he is expected to give, and further it is irrelevant and immaterial.

A. Yes, sir, it is.

Q. Now, go on, Mr. Griswold.

A. Well, I knew Mr. Reeve had no property of any kind with the exception of what is termed cayuses in Montana, which were practically of no value at that time, and I didn't think that I would be warranted in advancing to Mr. Reeve, or agreeing to advance any money to him to take up these six claims, and therefore I directed him to go to Mr. Cobban and make his arrangements.

Q. Whereabouts were you when you directed him to go and see Mr. Cobban?

A. My recollection of it is that we were on the corner of Front street and Higgins avenue, near the Florence Hotel at the time. I wouldn't say where it was, but it was in Missoula, I know that.

Q. Well, now, go on, please, and state when you next saw him?

A. He said he wanted to take up these claims, six of them. One for himself and his wife, and one for

(Testimony of Chauncey L. Griswold.)

each of his two daughters, and one for each of their husbands.

By Mr. BICKFORD.—We object to this as being hearsay, and for the further reason that he has already stated and told just what the conversation was.

(Witness continuing.) He told me that he had known Mr. Cobban from childhood. I said to him then you had better go and make arrangements with him. I didn't make any agreement with Mr. Reeve, or anything of the kind. So far as his testimony with reference to his agreeing with me to give me a hundred dollars to engage this land, and get claims for him, there is not a word of truth in it at all.

Q. Did you ever have any talk on that subject with him at all?

A. Not the least bearing on it in any way or manner.

Q. How could you get a hundred dollars?

A. I had nothing of the kind. I didn't know anything about it. There was nothing of the kind mentioned. No contract with Mr. Cobban and myself or Mr. Reeve and myself in any way, shape or manner.

Q. You may state, Mr. Griswold, whether or not Mr. Cobban, in any settlement you had with him, for any claims he had against you, or in any claims you had against him, or any charge, there was any such charge of a hundred dollars as this?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and has

(Testimony of Chauncey L. Griswold.)

nothing whatever to do with any of the issues in this case.

A. He did not.

Q. When did you first hear of such a tale or story as that?

A. When Mr. Reeve was on the stand yesterday, or the day before. That was the first that I had heard of it.

Q. Well, when did you see Mr. Reeve after this conversation in which you told him to go and see Mr. Cobban?

By Mr. BICKFORD.—We object to this for the reason that it is irrelevant and immaterial, and does not prove, or tend to prove any of the issues in this case.

A. My recollection of that is that I overtook Mr. Reeves about seven or seven and a half miles from Bonner, going up the Blackfoot river, and he drove ahead of me until we got to Mr. Stairs place, which is about nine miles from Bonner, and there is a watering trough and a saloon and hotel there, and we stopped there to water our horses, and during our stopping there we agreed to trade horses, and at that time and place, I asked him where he was going, and what his business was, and he said he was going up to make these locations for these six people. We swapped horses; he took mine and I took his, with the understanding that if the horses didn't suit, and were not just as we had represented that they were, that we were to trade back again

(Testimony of Chauncey L. Griswold.)

when we got back to Missoula, because at that time Mr. Reeve had told me that he had made his arrangements with Mr. Cobban.

By Mr. BICKFORD.—We object to this for the reason that it is hearsay and irrelevant and immaterial to the issues in this case and further because no proper foundation has been made for the impeachment of the witness, Mr. Reeve.

(Witness continuing.) Whereby Mr. Cobban was to furnish Mr. Reeve with money to defray his expenses in making his application to purchase, and subsequently to make final proof for the consideration of the sum of one hundred dollars over and above his expenses.

Q. For how many. A. For six people.

Q. Did he name those six?

A. He did.

Q. Who were they?

A. Himself, his wife, his two daughters, Mr. Starkie and Mr. Ehle who are the sons in law of Mr. Reeve.

Q. Did you say at any time after that, and before final proof—were you a witness in any of these cases?

A. I have no recollection of being a witness for them at all, no, sir.

Q. And they were located by whom?

A. By Mr. Jemison.

Q. Albert Jemison?

A. Yes, sir, who has already testified in regard to these claims.

(Testimony of Chauncey L. Griswold.)

Q. And was Albert Jemison working for you at that time?

By Mr. BICKFORD.—We object to that for the reason that it is leading.

A. He was.

Q. Now, then, Mrs. Ehle testified on her examination relative to the fact that when she was in Missoula for the purpose of making her final proof, that she was informed in Mr. Cobban's office, that the timber was not sufficient to justify the making of the proof, and the advancement of the money, and buying the claim, and that Mr. Kilburn told her that he would give her another claim. Did you hear her testify on that subject? A. I did, yes, sir.

Q. Now, I wish you would give your version of that, Mr. Griswold, and state what the facts are?

A. The facts of the matter are, that Mr. Jemison, who was working for me at the time he made these locations made a mistake or erred in judgment in locating Mrs. Ehle, and Mr. Reeve told me in Cobban's office that Mrs. Ehle was feeling very badly because the others got a hundred dollars, and she couldn't get hers.

By Mr. BICKFORD.—We object to that as being hearsay, and irrelevant and immaterial, and move to strike the answer from the record.

(Witness continuing.) And at that time and place I told Mrs. Ehle—I told Mr. Reeve that if Mrs. Ehle didn't get her claim, or didn't locate one, that I would

(Testimony of Chauncey L. Griswold.)

get one for her, and if not, I would give her $25.00 out of my own pocket.

Q. How did you happen to do that?

A. Out of compassion for her. In my opinion they were poor people and needed the money. She was feeling badly, and I was making money, then.

Q. So you just promised it to her as a favor?

A. Yes, sir.

Q. Well, go on?

A. Subsequently, I did tell Mrs. Ehle where to go and locate on a claim which was the southwest quarter of section 18, in township 16 north, of range 14 west. She did go and locate the claim and made final proof, and finally transferred the same to Mr. Cobban, for and in consideration of a hundred dollars.

Q. Who did you send her to?

A. Who did I send her to?

Q. Yes, sir.

A. I never sent her to anyone.

Q. Just gave her the description?

A. Just gave her the description and told her what to do. Referring to the time that Mrs. Ehle was to go on and locate, I had been to the claims with Mr. Cobban. He desired to go on and see and estimate the claims of Levi Cyr and Vital Cyr. In looking over these claims which were on the north half of section 18, township 16 north, range 14 west, I had run across one on the southwest quarter of section 18, in the same township and range, and saw that there was a claim there that

(Testimony of Chauncey L. Griswold.)

was worth taking, and immediately after my return to Missoula I informed Mrs. Ehle of the fact.

Q. You informed Mrs. Ehle of the fact?

A. Yes, I informed Mrs. Ehle or her father, Mr. Reeve, then and there in the office of Mr. Cobban, or Cobban and Densmore, and Mr. Cobban followed me out into the corridor of his office—it was formerly the bank of Mr. Higgins, and there was quite a long entryway or corridor there, and Mr. Cobban told me at that time.

By Mr. WALSH.—We object to the witness testifying as to what Mr. Cobban told him for the reason that it is hearsay.

(Witness continuing.) That he wouldn't agree to pay the entire expenses, but would agree to pay them a hundred and fifty dollars, and they were to pay their own expenses. At the time I was in there this occurred as I have stated. I examined these two claims namely, the northwest quarter and the north half of the northeast quarter of section 18, township 16 north, of range 14 west. The snow was just about to my knees, and it was very hard for me to get through it.

By Mr. WALSH.—I would like to have the stenographer note that the witness leaves the witness chair and walks up and down the floor while testifying.

Q. Go on, Mr. Griswold.

A. And there must have been at least six days elapsed before Mrs. Ehle could go onto the land, and I am very sanguine in the belief that Mrs. Ehle did not

(Testimony of Chauncey L. Griswold.)

at that time go on to this land, or afterwards, or near the location.

By Mr. BICKFORD.—We move to strike out the answer of the witness with reference to his belief as to Mrs. Ehle going on the land, and as to whether or not he was sanguine.

Q. You say the snow was up to your knees?

A. Yes, sir, Mr. Mickels was with me at the time, and I think he will bear me out in the assertion.

Q. It was on a steep mountain side, was it?

By Mr. WALSH.—We object to that as being leading.

A. Yes, sir, it was very steep, and the snow was so deep that Mr. Mickels and I couldn't ride our saddle horses onto this land, and we had to leave our horses at the corner of section 12, and take the line and go up on foot.

on foot. Mrs. Ehle testified in her direct examination that this land was close to the lake. I will venture to say that it isn't within two miles of any lake.

By Mr. WALSH.—What is this question?

By Mr. BICKFORD.—There is no question.

By Mr. WALSH.—We are not prepared to argue this case now, and if we are, we are not prepared to have Mr. Griswold argue it.

(Witness continuing.) Mrs. Ehle testified—

By Mr. BICKFORD.—Wait a minute. We move to strike out all of the foregoing statement of the wit-

(Testimony of Chauncey L. Griswold.)

ness, as not responsive to any question propounded by counsel and for the further reason that it is irrelevant and immaterial, and does not prove or tend to prove, any issues in the case, and is largely hearsay, and conclusions drawn by the witness, rather than facts stated by him.

By Mr. MAYNARD.—I desire to say that the testimony that the witness has just given was in reply and in answer to the question that I put to him, and that is in substance this: That he give his version of the facts and circumstances connected with Mrs. Ehle making her second filing, and to which I specifically called her attention when she was on the stand, and which she afterwards took up and sold to Mr. Cobban and Cobban sold to Clark. At that time and this I specifically asked her if she did not at the time say she was disappointed in being told that the Cobban people had found out that the timber which they were to buy there wouldn't hold out, and that if Mr. Griswold didn't at that time and place tell her specifically to cheer up that he would give her a claim, and that she denied having seen him, or at any time having any talk with him on the subject, and knew nothing about his connection, and never exchanged a word with him, and I asked her if he didn't mention the specific description and tell her about it, and this for the purpose of having her impeached so that Mr. Griswold is making the statement in his own way in the cases that these Ehles filed.

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—We move to strike out the statement of counsel as being an argument of the case, and for the further reason that it is not borne out by the record, with reference to the testimony of Mrs. Ehle, as given by her upon the witness-stand, and for the further reason that he is not permitted to contradict or impeach his own witness, and the testimony, which he seeks now to introduce is only proper in rebuttal, and is not proper as a part of his principal case. And so far as the counsel states that he desires this for the purpose of impeaching Mrs. Ehle, the witness has long ago told everything that goes to contradict anything Mrs. Ehle said concerning the conversation in the office—in Mr. Cobban's office.

By Mr. MAYNARD.—I desire to say again that I disclaim that any of these entrymen or entrywomen are Government witnesses, but that each and every one of them are now under a charge of perjury for making these very entries, or are the relatives of those that are under indictment, that they are adverse witnesses, and that it has been necessary to treat them as such. That they have been under—before each and every one of them went upon the stand they had a consultation with their counsel, and it was distinctly stated here in court that unless he could have the privilege of having a private consultation with them as to their testimony that he would claim that they need not testify at all, but could claim their constitutional

(Testimony of Chauncey L. Griswold.)

privilege, and not answer any questions that the counsel for the Government put to them.

By Mr. WALSH.—I desire to say that we do not wish to argue the case at this time.

Q. Now, I will ask you, Mr. Griswold, had you finished? A. No, sir, I had not.

Q. Well, will you go on and state further?

A. Yes, sir.

By Mr. WALSH.—I ask the Master to admonish the witness to testify to facts only what he knows himself, and not what other people have told him.

By the EXAMINER.—Yes, I think the witness understands that already. I think, myself, that it would be better perhaps to put specific questions to him.

By Mr. MAYNARD.—The only thing about it is, I think we can get over it so much quicker. We can cover the ground in fifteen or twenty minutes this way, whereas it might taket en hours the other way, that is all. That is one method of examining the witnesses.

Q. Well, just now, in regard to this Ehle entry. State as to whether or not anything was said or done by her, after the last fact and circumstance that you have named in your testimony? A. Yes, sir.

Q. Well, what is it?

A. She went on and made the location under the specific terms and arrangements that we had already made in Mr. Cobban's office.

By Mr. BICKFORD.—We now move to strike out the

(Testimony of Chauncey L. Griswold.)

answer of the witness so far as given upon the ground that it is irrelevant and immaterial, and has already been answered, and testified to by him heretofore, and upon the further ground that it is not responsive to the question, as the witness was never asked to state what she did, or what the terms of the contract or agreement or otherwise was, or what she did with reference to it.

By Mr. MAYNARD.—These gentlemen might as well agree as to who will make the objections instead of both of them objecting.

By Mr. WALSH.—No, we will make such objections as we see fit to make. It is entirely satisfactory to us.

A. Between Mrs. Ehle, Nellie J. Ehle, John B. Reeve, and myself, wherein Mr. Cobban directed me to say to them that we would—that he would give them a hundred and fifty dollars, and they were to pay their own expenses incurred in making their final proof.

Q. Now, Mr. Griswold, I wish you would state to me as concisely as you can, just why Mr. Cobban changed his price of a hundred dollars and expenses, and was willing to offer a hundred and fifty dollars, and they pay all their expenses. Now, what was the fact about that?

By Mr. WALSH.—We object to that upon the ground that it is immaterial and irrelevant, and a transaction between this party, and neither of them are parties to this action, neither Mr. Griswold or Mr. Cobban, or any of them.

(Testimony of Chauncey L. Griswold.)

A. The facts of the case in this particular location was that it was in the neighborhood of ninety miles from Missoula, where they had to go to make the examination of their claims and which they had to testify to in making their application to purchase, then Mr Cobban thought that the expenses would be more than fifty dollars.

By Mr. BICKFORD.—We object to this upon the ground that it is not responsive to the question propounded by counsel, and further, it is irrelevant and immaterial.

(Witness continuing.) He said he thought a hundred and fifty dollars was all he could stand on the claim.

Q. I call your attention to the fact and ask you whether or not the element—the fact that she had already made one location which hadn't panned out, and there was some expense connected with it, and whether that was considered?

By Mr. WALSH.—We object to that as being leading.

A. Yes, sir, that was considered.

Q. Now, Mr. Griswold, did you hear me ask Mr. Reeve if he knew a woman by the name of Mrs. Lawrence? A. I did, yes, sir.

Q. And that he denied that he had ever had any conversation in regard to Mrs. Lawrence?

A. I do.

(Testimony of Chauncey L. Griswold.)

Q. I will ask you, if as a matter of fact, you did have a conversation with Mr. Reeve, in the city of Missoula in regard to your securing a location for Mrs. Lawrence.

By Mr. BICKFORD.—Wait a moment. To that we object also, and we object to it upon the ground that it is irrelevant, immaterial and incompetent to contradict a witness on an immaterial question, and this matter is wholly immaterial to any issue in this case, and does not prove, or tend to prove any issue of fraud whatever.

A. Yes, sir, I did.

Q. You may state what that conversation was.

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and utterly incompetent for any purpose, and counsel cannot contradict a witness on an immaterial matter, and this is wholly and entirely immaterial to any issue raised by the pleadings in this case, and does not prove or tend to prove any issue therein.

A. Mr. Reeve came to me in the city of Missoula; I wouldn't say what place, I have no recollection of that, and gave the name of Mrs. Lawrence, living two doors west of the iron foundry, west of the Bitterroot Park in Missoula, and wanted me to locate her on the claim adjoining—that she was a poor woman and needed it, and I told them I would see about it, and I afterwards found out that Mrs. Lawrence was not a woman of the kind that I would like to locate on any of the lands.

(Testimony of Chauncey L. Griswold.)

Q. You may state as to whether or not, at the time that Mr. Reeve spoke to you about getting a location for Mrs. Lawrence, you wrote her name in your book?

By Mr. BICKFORD.—We object to that as being leading.

A. Yes, sir, I did.

Q. Have you that with you? A. Yes, sir.

Q. Where is it? A. In my pocket.

Q. Will you produce it, please?

A. Right there it is, Mrs. Lawrence, two doors west of the foundry.

By Mr. WALSH.—Let me see that book. (Witness hands book mentioned to counsel for the defendant.)

By Mr. WALSH.—If the witness is going to refresh his recollection, we want to determine whether that entry was made yesterday or to-day.

By the WITNESS.—It was made at the time and place Mr. Reeve spoke about it.

By Mr. MAYNARD.—I object to counsel for the defendants going into a study of each page of the book. It is a private book of the witness.

By the EXAMINER.—Mr. Walsh, I will guarantee, is not going to take advantage of his privilege, or Mr. Bickford, either.

Q. Did you write that name in that book at that time and place?

By Mr. WALSH.—We object to that as leading.

A. I did, yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. And you have had the book in your possession ever since?

By Mr. WALSH.—We object to that as leading.

A. I have.

Q. Now, Mr. Griswold, you stated this morning, that you could produce a receipt, and a telegram from Cobban in regard to the paying of money for the publication of notices for these people? A. I did, and I can.

Q. Will you please produce it? A. Yes, sir,

By Mr. MAYNARD.—I have here the telegram mentioned by the witness, and I will ask the Examiner please to mark it as an exhibit.

By Mr. BICKFORD.—We will interpose an objection to this when it is offered. It has not been offered yet, has it, Mr. Maynard?

A. No, but I will offer it now. I will also offer the receipt mentioned by the witness, and ask the Examiner to mark that also.

By Mr. BICKFORD.—We interpose the objection now, that the papers are irrelevant, immaterial and incompetent for any purpose, and do not prove, or tend to prove, any issue in this case, and that the contents of the papers do not show anything to substantiate the allegations of the complainant in this case, so far as the receipt is concerned, and so far as the telegram is concerned it is indefinite, and is not connected with any specific claim, or any specific entry, and is not shown to be connected with any specific entry in the case, or in the bill of complaint

(Testimony of Chauncey L. Griswold.)

herein filed, and it does not appear to be signed by R. M. Cobban, and if so signed by him, would not be competent proof in this case, and is a copy evidently received from the delivery office, and not the original telegram written by R. M. Cobban, and it is therefore incompetent as testimony herein.

By the EXAMINER.—The telegram is marked "Complainants' Exhibit No. 202." And the receipt mentioned is marked "Complainant's Exhibit No. 203."

Q. I wish that you would give us the facts and circumstances connected with that paper, the receipt.

A. At about the time of the date of the receipt, which it states, six months 24th day, 1899, I went to the office of the Missoula Publishing Company, and did pay then and there eight dollars for this affidavit of publication for Mr. Cobban.

By Mr. BICKFORD.—We now move to strike out the answer of the witness, for the reason that—

By Mr. MAYNARD.—Just read the receipt, please?

Mr BICKFORD (Continuing).—The receipt is given to Stephen Tepper for eight dollars for publishing final proof in his case, signed the "Missoulian," E. H. B., and it does not appear to have been given to this witness at any time.

Q. Now, what are the facts in regard to that?

A. The facts in regard to this matter are that Mr. Tepper at that time was in my employ at Clearwater, and when he came down to make his final proof, he didn't have

(Testimony of Chauncey L. Griswold.)

any money, and I went to the Missoulian Publishing Company and paid them the money and received the receipt in his name. I had to do so because I couldn't take it in anybody else's name, for the reason that it would not have been accepted in the land office.

Q. Was that charged up to Mr. Cobban?

By Mr. BICKFORD.—We object to that as being incompetent, irrelevant and immaterial, for the reason that whether it was charged to Mr. Cobban, or otherwise, would not bind the defendant herein, and no authority has been shown for charging it to Mr. Cobban at any time, and because the charge, wherever it appears in the book account, is the best evidence of the fact sought to be shown.

A. I think this item of eight dollars was combined in a matter of expenses that Mr. Cobban gave me credit for in an itemized statement that he gave me about the time that we were having our trouble in Missoula.

By Mr. WALSH.—We move to strike out the answer of the witness, as not responsive to the question, and as being irrelevant and immaterial.

Q. This money was paid to you to carry out your employment by Mr. Cobban, in making this entry.

By Mr. WALSH.—We object to that as leading.

A. Yes, sir.

Q. Is that it, Mr. Griswold?

By Mr. WALSH.—We object to that as leading.

A. Yes, sir, it was paid to Mr. E. H. Bryan, who was conducting the Missoula paper at that time.

(Testimony of Chauncey L. Griswold.)

By Mr. MAYNARD.—I would like to have you read it now.

A. "Received this 24th day of June, 1899, of Stephen Tepper eight dollars and no/100, for publishing final proof notice. $8.00. 'The Missoulian.' E. H. B."

By Mr. MAYNARD.—The next is Complainant's Exhibit No. 202, and is the telegram which reads as follows:

"Received at Missoula, Montana, 8.40 P. M., June 23, 1899, Butte, Montana, 23. C. L. Griswold. To one of the hotels, Missoula, Montana. Wire me where to wire you the money for proving up. R. H. Cobban."

Q. What were the facts and circumstances connected with that telegram, Mr. Griswold?

A. Why, the facts and circumstances in regard to that telegram and receipt is that there was an agreement between Stephen Tepper, Mr. Cobban and myself, wherein Mr. Cobban was to furnish money to Mr. Tepper to commute what he claimed as a homestead in section 14, I believe, of the southwest quarter of section 14, in township 15 north, range 13 west.

By Mr. BICKFORD.—Now, we move to strike out the reply of the witness because there is no complaint—there is no charge in the bill of complaint that there was ever any fraud in the commutation of a homestead entry, and that the same is irrelevant and immaterial, and is not responsive to any issue in the case.

Q. Have you stated all that you care to say in regard to the circumstances, regarding the telegram?

(Testimony of Chauncey L. Griswold.)

A. I will say this much in regard to that: I didn't receive the money at all. The money was paid into the land office by either Mr. Pound or Mr. Catlin, because I know the proof was made.

By Mr. BICKFORD.—We move to strike out the answer of the witness, for the reason that it is irrelevant and immaterial, there being no charge in the bill of complaint that there was ever any fraud in the commutation of the homestead entry of Stephen Tepper, and, therefore, it is not responsive to any issue made by the pleadings in this case.

(Witness Continuing.) He subsequently went upon a timber claim in section 20, in township 15 north, of range 16 west. That is my recollection about it. It contained eighty acres and was under the same terms and agreements whereby Mr. Cobban was to furnish him the money to make his final proof and pay all his expenses, and pay him the stipulated price. What the price was, I don't know. Of course the price was made between Mr. Cobban and Mr. Tepper themselves.

By Mr. BICKFORD.—We move to strike out the answer of the witness for the reason that it is irrelevant and immaterial, there being no charge in the bill of complaint that there was ever any fraud in the commutation of the homestead entry of Stephen Tepper, and therefore, it is not responsive to any issue made by the pleadings in this case.

Q. Now, I will ask you, Mr. Griswold, if, in the follow-

(Testimony of Chauncey L. Griswold.)

ing entries, made by the persons whose names I shall read, whether you have—whether your testimony this morning relative to their making the entry for the express purpose and under an express agreement that they should receive one hundred dollars and their expenses, and that they should immediately convey, after receiving the receiver's final receipt, the land to Cobban, applies to the following persons.

Mr. BICKFORD.—We object to this as being leading, further as being irrelevant and immaterial, and calling for a repetition of testimony which has heretofore been given by the witness, and that it is a mere repetition of his former testimony. It is also calling for a conclusion from the witness, and not for a statement of any fact by him concerning any matter which is in issue in this case,

Q. (Continued.) Charles Cloutier, John Gilles, Thomas Pelky, Edgar Lehman, Harriet Watson, May Hawthorne, M. B. Watson, Katie Watson, Doc E. Watson, Harrison Dodd, Mathilde Dodd, Lizzie Dodd, Dan McGillis, and Mrs. Harriet F. Bryan.

By Mr. BICKFORD.—We object to this as being leading, further as being irrelevant and immaterial, and calling for a repetition of testimony which has heretofore been given by the witness, and that it is a mere repetition of his former testimony. It is also calling for a conclusion from the witness, and not for a statement of any fact by him, concerning any matter which is in issue in this case.

(Testimony of Chauncey L. Griswold.)

Q. What is your answer, Mr. Griswold?

A. I have no recollection of testifying to that this morning.

Q. Very well, if you didn't testify to it this morning, you may now state what is the fact as to these named persons.

A. Well, in regards to the Watsons and some of the Dodds, there are so many I cannot enumerate and keep them in my memory. They all go under some nickname, these people that I located.

Q. I will give you the list to refresh your recollection. That is, the list that I read from.

A. Beginning with the list, Charles Cloutier, John Gilles, I did absolutely locate them and approve their selections and pay their expenses in full.

By Mr. BICKFORD.—We object now to the witness volunteering any testimony about these matters at all. He was simply asked yes or no questions, and he wasn't asked to give any facts or circumstances in connection with any of these entries by the parties mentioned, and we object to his going into the entry that Cloutier or Gilles made as he has already told all of the facts concerning these claims upon his former examination.

By Mr. MAYNARD.—It won't take more than five minutes to go through that list in the manner specified.

Q. Go on, Mr. Griswold, and tell the facts and circumstances as you started to do.

A. I paid the entire expenses—

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—Wait a moment. I object to this for the reason that it is not responsive to the question. I am going to request the Examiner to direct the witness not to answer the question.

By Mr. MAYNARD.—He started to answer the question and you interrupted him.

Q. Now, then, what I am asking you, Mr. Griswold, now, is to answer that question just the same as if it had been put this forenoon, as I supposed it had, and I put it to you now, and you will please answer it.

By the EXAMINER.—Go ahead.

A. In regards to the location of Mr. Cloutier and Mr. Gilles, I made the selections—

By Mr. WALSH.—Now, wait a moment. That is not responsive. The question is whether they made their entry under that agreement.

By the EXAMINER.—Yes, now, whether they did or did not.

A. I will answer it by saying that some of them did and some did not, to my knowledge.

Q. Now, name those that did.

A. There is Charles Cloutier, he is one. M. B. Watson and Katie Watson, and Doc E. Watson, and Harrison Dodd. I believe that is all that I located under the express agreement with Mr. Cobban.

Q. You, individually, you mean? A. Yes, sir.

Q. Well, then, who did you have this express agree-

(Testimony of Chauncey L. Griswold.)

ment with there, and by your agents, as they were working for you as they informed you?

By Mr. WALSH.—We object to this for the reason that it is hearsay, and it is also leading, further, it assumes a fact as proven which has not been proven, namely, that he was informed by anybody concerning the matter.

A. Sarah Yarger, and Mathilde Eddy; I believe that is all on this list; that is, Sarah Yarger and Mathilde Eddy. That is, that I had an express agreement with, through one of my employees.

Q. Who was that employee?

A. Albert Jemison. They are mixed up on this list, and I don't know as I can get at them.

Q. Just Cloutier and John Gilles, did you name them?

By Mr. WALSH.—We object to that as being leading.

A. I named them.

Q. Well, you have named these two, Cloutier and Gilles, what do you know about them?

A. The facts are that Mr. Charles Cloutier, there was an express understanding and agreement between us as binding as could be made by any written instrument, whereby he was to convey the claim he was located upon to R. M. Cobban, or to whom he might elect, for and in consideration—

By Mr. WALSH.—We move to strike out the answer of the witness for the reason that it is a repetition of the testimony already given by the witness a long time ago, and

(Testimony of Chauncey L. Griswold.)

appears in the record, and it is just simply a reiteration of the conversation which the witness claims to have had.

(Witness continuing.) —for and in consideration that Mr. Cobban was to pay him a hundred dollars over and above the expenses incurred in making his final proof.

By Mr. WALSH.—We move to strike out the answer of the witness for the reason that it is a repetition of the testimony already given by the witness a long time ago, and it appears in the record, and it is just simply a reiteration of the conversation which the witness claims to have had.

Q. Now, then, I will ask you as to the John Gilles entry?

By Mr. WALSH.—We object to this upon the ground that the witness has already testified to the facts concerning the Gilles entry that he claims to have made, and I will refer the counsel to it and give him the page of the record.

By Mr. MAYNARD.—There is just one question that I propose to put to him.

By Mr. WALSH.—Well, then, don't ask for all the facts and circumstances.

By Mr. MAYNARD.—I don't want all the facts, I just want that one question, that is all.

Q. What is your answer to the John Gilles entry, Mr. Griswold?

A. Oh, I know what the Gilles' entry is; what he told me after having a conversation with Mr. Cobban at my place at Clearwater.

(Testimony of Chauncey L. Griswold.)

Q. Very well, then I ask you if in that conversation the arrangement—the facts concerning his entry were named by him?

By Mr. WALSH.—We object to that for the reason that it has already been testified to by the witness, and further it is hearsay. We object to the conversation had by the witness with Gilles, for the reason that the record shows that Gilles is dead, and it is not competent for him to testify to any conversation had between the witness and a man who is now dead, and who cannot now dispute his statements.

By Mr. MAYNARD.—Well, I suppose that really might apply where the facts were exclusively within the knowledge of the two parties, but I don't understand that it applies where Mr. Cobban, who is now living, is here, or is available to disprove it.

By Mr. WALSH.—He doesn't pretend that Mr. Cobban was present when the conversation was had.

Q. Was Mr. Cobban present?

A. I saw Mr. Cobban and Mr. Gilles in conversation, and a little later Mr. Gilles came to me and said that he had made the arrangements—and stated to me that he had made all the arrangements with Mr. Cobban.

By Mr. WALSH.—We object to that for the reason that it is not responsive to the interrogation by counsel, and we therefore move to strike out the answer of the witness.

Q Now, the question is whether this conversation, I

(Testimony of Chauncey L. Griswold.)

mean this word that Mr. Gilles brought to you from Cobban, was with reference to the location which he made and the entry which he made, which is named in the bill of complaint in this case.

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and it is also hearsay.

A. That is my recollection of it, yes, sir. That is, with reference to this particular piece of land which is in question.

Q. Would you like to see the bill of complaint?

A. No, I think it is section 12, township 14 north, of range 13 west. I couldn't give you the exact description but I know it is in section 12, township 14, range 13 west, and I believe that the piece of land was referred to for Mr. Gilles and Mr. Cloutier and myself had been on this land several times previous to making the selection, and Mr. Cobban also told me that he had made the agreement with Mr. Gilles.

By Mr. WALSH.—We move to strike out the answer of the witness, wherein he states what Mr. Cobban told him, as hearsay.

(Witness continuing.) To furnish the money.

By Mr. BICKFORD.—We object to the witness being handed the bill of complaint in this case by counsel for the purpose of refreshing his recollection concerning the description of the land, and we object to counsel calling the attention of the witness to that particular

(Testimony of Chauncey L. Griswold.)

part of the bill of complaint which contains a description of Gilles land upon the ground that it is not competent for him to refresh his memory from the bill of complaint, and so shape his testimony as to conform to the bill of complaint irrespective of the facts concerning the same. We also object to this upon the ground that it has already been testified to by this witness as appears from his testimony contained in volume one, page 140 of the record, which I now offer to the counsel for the Government for the purpose of informing him of the fact.

(Witness continuing.) Mr. Cobban did inform me at or about that time that he had made an agreement with Mr. Gilles to furnish him the money to defray the expenses of making his entry and final proof, for and in consideration of the fact that Mr. Cobban should pay him $250.00 upon the conveyance of the land by Gilles to Cobban.

Q. Very well; we will pass to the next. Do you know Martha J. Doney? A. I do.

Q. Do you know anything about the conditions upon which she made her entry?

A. I do not, only from hearsay.

Q. Who did you ever talk with with reference to this matter?

A. Mr. Jakways of Ovando, one of the members of the firm of Jakways & Faust.

Q. Very well; what did Mr. Jakways say?

By Mr. BICKFORD.—We object to that upon the

(Testimony of Chauncey L. Griswold.)

ground that it is irrelevant and immaterial, and has been testified to already by the witness.

A. Mr. Jakways at that time told me that these people, the Doneys—

Q. That is, Martha J. Doney, and her husband?

A. Yes, sir, Martha J. Doney and her husband, M. J. Doney. They were known to me to a certain extent. Mr. Jakways told me that he would be very glad if we could get him a claim and make final proof, and convey the land for almost anything they could get. Mr. Doney at that time was living on a homestead. I cannot recall the section, but it was in township 15 north, range 13 west, and he made final proof on his homestead, and a timber and stone entry by himself and wife, and subsequently did convey to R. M. Cobban through his agents at Ovando, who were Jakways & Faust.

By Mr. WALSH.—We move to strike out the answer of the witness, for the reason that he has not stated any fact which is within his own knowledge, but has given a statement which is entirely hearsay, and irrelevant and immaterial and incompetent and not responsive to any issue in this case, and upon the further ground that it has already been testified to by the witness, and all the facts related by him on his direct examination heretofore had in this case.

By Mr. MAYNARD.—Now, I desire to have it appear in the record that the position of the Government in

(Testimony of Chauncey L. Griswold.)

this matter is this; in this case involving fraud and conspiracy, it is entirely competent for the Government to show what was said by these conspirators, when it was said there to Mr. Griswold or to Mr. Cobban, or Mr. Griswold's employees, who were working for Mr. Cobban, under his contract, and when it came from other agents of Mr. Cobban, who were also engaged in this fraudulent conspiracy. We claim that Jakways & Faust were both of them the agents of Mr. Cobban, and buying and selling these lands for Mr. Cobban, and for the defendant, and whatever they said to him regarding this enterprise is competent to appear in the record in this case.

Q. Now, in regard to the Thomas Pelky claim, Mr. Griswold.

A. It is in section 10, township 14 north, range 13 west, and was located upon the express request of R. M. Cobban, the selection having been made by himself prior to the time that Mr. Pelky came to my place at Clearwater in company with Mr. Cobban.

By Mr. WALSH.—If your Honor please, am going to object to this thing. I don't propose to go over this whole entire ground in this shape unless we are obliged to, for some reason or other. Now, if there is any fact that has been omitted, and overlooked by counsel for the Government, and he wants to ask him about it, I have no objection to it, but I don't see any sense of our going over this ground again and going clear down the

(Testimony of Chauncey L. Griswold.)

line again with all the facts that exist in regard to these entries. I have got something else to do.

By Mr. MAYNARD.—If this is gratuitous I don't wonder that he is anxious to get through, but my position is this, if your Honor please; these are questions that are necessary to be asked at this time because of the fact that the persons to whom I have called the attention of the witness, now, were all of them subpoenaed, and most persistent effort has been made by the Government to secure their attendance, but we have been unable to find them, and I can make proof of that fact by the officer who has had charge of the matter. We have been disappointed in being able to secure their personal attendance, and I am now obliged to ask this witness the questions that I would have asked him in the first place, had I known when he was on the stand before that their attendance would not or could not be secured by the process of this court, and it is only justice to the narrow point of the agreements that were made by the different parties, so far as he has any knowledge, that I desire to inquire about.

By Mr. WALSH.—It is page 134 of the record, and the witness was interrogated at length upon this matter.

By Mr. MAYNARD.—I know it was referred to, but it wasn't gone into with that degree of explicitness that I would have gone into it if I had known that the witnesses whom we have been disappointed in obtaining would not be present to testify in person.

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—If there is any particular fact that was not brought out we have no objection whatever to the witness being asked concerning it and giving the facts concerning the same, provided they are competent. But to go into all these matters again when they have been once fully gone into, I don't think that ought to be done, and I don't think we ought to make to sit here and listen to it.

By Mr. MAYNARD.—What I am asking him about is the explicit fact.

By Mr. WALSH.—Very well, he has already given the facts in his testimony.

By Mr. MAYNARD.—Just the exact talk that he had with him, that is what I want to get.

By Mr. WALSH.—Very well, we will give it to you; you will find it on page 134 of the record.

By Mr. MAYNARD.—I haven't had this book before me and haven't before me the book now, and the only one point that I desire to ask and we can get at it readily if we take ten minutes' time—

By Mr. WALSH.—If you would ask him one point, but he has gone on and told all the facts.

By Mr. MAYNARD.—All I am asking him about is the fact and circumstance connected with the agreement, that is all.

Q. You can do this as short as you can, Mr. Griswold, and state with regard to the Thomas Pelky claim.

By Mr. WALSH.—I object to that because it does not

(Testimony of Chauncey L. Griswold.)

ask the witness for any specific fact concerning the Thomas Pelky, claim, but gives the witness latitude to go on and tell what he thinks, and not what he knows about the Thomas Pelky claim.

Q. What I desire to ask you, Mr. Griswold, is this, in regard to whether or not you knew of the prior agreement that existed in the case of Thomas Pelky, and if so, just what it is.

A. I have no knowledge of any agreement. There was no agreement between Thomas Pelky and myself.

Q. Very well, state what you know about it.

A. All I know is what occurred; Mr. Cobban came there to my place at Clearwater.

By Mr. BICKFORD.—We object to this—it is the same old "rigamarole," and has been gone over time and time again before.

(Witness continuing.) With these parties—

By Mr. BICKFORD.—We object to the witness restating the testimony concerning Mr. Cobban coming there with these parties. We simply ask that you do not repeat questions and ask for the same testimony that you have already brought in the former examination of this witness.

By Mr. MAYNARD.—We simply ask that he go on and state what he knows as to an agreement.

By Mr. BICKFORD.—And that he has already answered.

By Mr. MAYNARD.—He says he has no personal

(Testimony of Chauncey L. Griswold.)

knowledge; now, what I want to know is if he has any other knowledge than personal knowledge, if it was obtained from Mr. Cobban, well and good; if it was obtained from Mr. Faust, well and good. I want him to testify to that.

Q. That is what I want to show, Mr. Griswold, if you know it, and you can take all the afternoon to tell it.

A. I haven't any personal knowledge of an agreement being made prior to the time of the making of the location.

Q. Prior to the making of the locations, I mean?

A. Yes, sir.

Q. Did you have a conversation with Mr. Cobban after the time that you were able to refer to of his coming to your house, in regard to what arrangements he had made?

A. Nothing further than Mr. Cobban came to my house in the evening, and the next morning he requested me to take Mr. Pelky and Mr. Chattin up to two claims on section 10, in township fourteen north, range thirteen west of the principal meridian of Montana.

By Mr. WALSH.—That is also on page 134 of the record.

Q. Did he state at that time that he had made arrangements with them?

By Mr. WALSH.—We object to that on the ground that it is leading, and further, it is irrelevant and im-

(Testimony of Chauncey L. Griswold.)

material, and has already been testified to once by the witness.

A. I believe not; I don't believe he made any such request as that. Just directed as to go and take them to the claims.

Q. Then you obeyed the instructions, did you?

A. That is, not in person. I sent this man, Gilles with them, who was in my employ, to show those two men the claims.

Q. And did you have any conversation with either of them in regard to that?

A. That is Pelky and Chattin?

Q. In regard to it, yes, sir?

A. No, sir, I did not.

Q. Did you have any conversation with either of them about the matter?

A. I had a conversation with Mr. Gilles.

Q. Well, what was that conversation?

By Mr. WALSH.—We object to the conversation, for the reason that the witness has already testified that Gilles was in his employ at the time, and, secondly, because Gilles has since died, and it is not competent to show a conversation with the witness on the stand, and his employee, who has since died.

A. When Mr. Gilles came back at dinner time he was considerably excited, owing to the fact, as he claimed, that he couldn't get Mr. Pelky and Mr. Chattin to go on to the claim; that they wouldn't convey him

(Testimony of Chauncey L. Griswold.)

further than the Stewart ranch, or in about that vicinity.

By Mr. BICKFORD.—We object to the question and to the answer of the witness, for the reason that he has already testified that Gilles was in his employ at the time, and further that Gilles has since died, and it is not competent to show by the witness on the stand any conversation that occurred between himself and Gilles.

(Witness continuing.) He didn't know what to do and I told him it was nothing to him.

By Mr. BICKFORD.—We move to strike out the testimony of the witness, upon the ground that it relates to a conversation between a man who is now dead, and was then in the employ of the witness, and it is therefore, not competent proof, and further upon the ground that it is hearsay.

(Witness continuing.) Further, I am thoroughly convinced—

By Mr. BICKFORD.—We object to the witness stating his convictions for the reason that it is not testimony in this case, and has no bearing whatever upon the issues involved herein, and does not prove, or tend to prove, any of the issues in the case.

Q. Now, is this C. A. Muchmore?

A. It is E. A. Muchmore.

Q. Did you have any conversation with E. A. Muchmore?

A. No, not in person. That is Elizabeth A. Muchmore.

(Testimony of Chauncey L. Griswold.)

Q. Who had charge of her?

A. Charles A. Jakways of the firm of Jakways & Faust. I wouldn't like to be regarded as testifying particularly in this one case, but he told me that he had charge of all the Muchmores.

By Mr. BICKFORD.—We move to strike out this voluntary statement of the witness, for the reason that it is irrelevant and immaterial, and it is not responsive to any question propounded by counsel, and it is hearsay.

Q. And were the Muchmore entries made under the same conditions?

By Mr. WALSH.—We object to that upon the ground that it is simply a statement of counsel, and is not testimony of the witness, and is not in the nature of a question in any shape or form.

A. That is the way I have been informed.

Q. Who informed you of that?

A. Jakways & Faust.

By Mr. WALSH.—We object to that and we move to strike out the statement of the witness for the reason that it is hearsay, and upon the further ground that it is irrelevant and immaterial and hearsay, and has absolutely nothing to do with the issues involved in this case.

Q. About the Muchmores?

By Mr. BICKFORD.—We object to that and we shall object to this witness going on to tell what he knows

(Testimony of Chauncey L. Griswold.)

about a half a dozen different claims at one time, and if the matter is to be gone into at all, it should be inquired about separately and distinctly and not bunched together in that manner.

Q. Go on and tell what Mr. Jakways told you about the conditions of the entry.

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial, and hearsay.

A. Mr. Jakways came to me at Ovando and told me that Mr. Vogel had been there for the purpose of advancing money to the Muchmores to make final proof, and that he went on to Ovando to the Muchmores' home, about two miles distant from his store, and clinched the agreement that he had already entered into with them.

By Mr. BICKFORD.—We move to strike out the statement of the witness as referring to an agreement different from that which is charged in the bill of complaint, and different from that upon which the complainant bases his case, to wit, an agreement that Vogel, who has been testified to as being the agent of the Blackfoot Milling Company.

Q. Now, this Mrs. Bryan, what is her name?

A. Harriet Bryan.

Q. Harriet Bryan? A. Yes, sir.

Q. How about that, go on and state, Mr. Griswold?

By Mr. WALSH.—We object to the witness testifying in regard to the entry of Harriet Bryan, for the

(Testimony of Chauncey L. Griswold.)

reason that he has already testified to it, and gone into matter thoroughly, and it is irrelevant and immaterial, and incompetent and hearsay.

Q. The Edgar Lehman claim; he is the man that you testified about that you went up to Bonner after, is he not? A. Yes, sir.

Q. And he was the only one that you selected that held Cobban up?

By Mr. BICKFORD.—We object to that as not being proper examination of the witness, and further upon the ground that it is leading, and calls for a conclusion from the witness.

Q. Is that so, Mr. Griswold?

By Mr. BICKFORD.—We object to that as not being proper examination of the witness, and further upon the ground that it is leading, and calls for a conclusion from the witness.

A. Yes, sir, it is.

Q. I think you referred to his testimony when you were on the stand before, and the conditions upon which he made the entry?

A. I referred to his case, yes, sir.

Q. Did you refer to the condition of the case and as to the prior agreement?

By Mr. WALSH.—The testimony of the witness upon that point can be found on page 131. We object to it for the reason that it is a repetition of the testimony already given and is irrelevant and immaterial.

(Testimony of Chauncey L. Griswold.)

A. I believe I covered that fully.

Q. Now, I referred in bulk a few minutes ago to these Watsons? A. Yes, sir.

Q. That is, Harriet Watson?

By Mr. WALSH.—You will find the testimony upon page 128 of the record. There the entry of Mrs. Bryan was gone into.

Q. Now, in regard to these Watsons, Katie Watson, Marion B. Watson, Doc. E. Watson, what have you to say about that, Mr. Griswold?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and it has already been gone into, and the witness ought not to be permitted to go over the facts again, or to state what they are.

Q. Just simply in regard to the prior agreement; that is all?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and it has already been gone into, and the witness ought not to be permitted to go over the facts again, or to state what they are.

Q. Well, go on and state with reference to it?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and it has already been gone into, and the witness ought not to be permitted to go over the facts again, or to state what they are.

(Testimony of Chauncey L. Griswold.)

A. There was an absolute prior agreement, as binding as could be made, between Marion B. Watson and myself in regard to these four claims.

Q. And the four claims were made by Harriet Watson, Marion B. Watson, Kate Watson, and Doc. E. Watson? A. Yes, sir.

Q. And in regard to Harrison Dodd, Mr. Griswold?

A. Yes, sir, there was an agreement between him and myself and between Mr. Watson, who was at that time working for me.

Q. Of the same character that was included in your former answer?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and has already been thoroughly gone into by the witness.

A. Yes, sir.

Q. Now, now, in regard to Sarah Yarger, have you any knowledge in regard to her?

A. I have not, only by hearsay, and that was from Mr. Jemison. He was the man that located her on the claim.

Q. Very well, what did Mr. Jemison tell you in regard to the agreement, if anything?

By Mr. BICKFORD.—We object to that for the reason that it is hearsay, and the witness has already told in his statement what Mr. Jemison told him, and I will refer counsel to that.

Q. While my friend is looking for Sarah Yarger, I will ask you in regard to the claim of Mary Eddy?

(Testimony of Chauncey L. Griswold.)

By Mr. WALSH.—Just one moment, he has told about the whole brood of them already, and you will find it on page 113, of the record.

By the WITNESS.—I would like to amend that answer. You want me to tell you what took place, what talk was had with Jemison about locating these people, and Sarah Yarger?

Q. I am asking you now specifically in regard to Sarah Yarger; is she a relative to Mr. Jemison?

A. I think not.

Q. Now, then, just state specifically, all of this talk upon the question as to whether or not you were informed by Albert Jemison with reference to that?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and already gone into.

A. He had already informed me of the fact that I paid Mr. Jemison ten dollars for the location of Sarah Yarger on this claim. Under—

By Mr. WALSH.—We move to strike out the declaration of the witness, that he paid Jemison ten dollars, as not being responsive to any question propounded to him by counsel.

(Witness continuing.) The terms and conditions that I had made with Mr. Jemison prior to this time.

Q. Now, how many of these entries were made by Mr. Cobban himself on this list?

By Mr. BICKFORD.—We object to that as being ir-

(Testimony of Chauncey L. Griswold.)

relevant and immaterial, and as having already heretofore been fully testified to by the witness.

A. There were no entries.

Q. Locations, I mean.

By Mr. WALSH.—We object to that because the witness has already heretofore testified concerning the subject matter and it is irrelevant and immaterial, and calling upon the witness to reassert and reaffirm testimony already heretofore given by him.

A. Five at least.

Q. Can you name them? A. I can.

Q. Who are they, please?

By Mr. WALSH.—We object to that for the reason that it is irrelevant and immaterial, and has already been testified fully by the witness.

A. John L. Dering, John Saleen, C. C. Snyder, Alvira M. Hardy, John H. Hardy, in which Mr. Cobban positively swore on the stand, in the evidence against me in Missoula, that he had located these parties.

By Mr. BICKFORD.—We move to strike out the answer of the witness, because it is not the best evidence of the fact sought to be proved, and therefore, it is irrelevant and immaterial, and a repetition of the testimony heretofore given in the case with variations from his former testimony.

Q. You may state whether or not you yourself heard Mr. Cobban so swear? A. I did.

By Mr. BICKFORD.—We object to that as not the

(Testimony of Chauncey L. Griswold.)

best evidence of the fact sought to be proven, and we move to strike out the answer for the same reason.

(Witness continuing.) Charles H. Moss' claimed—

By Mr. BICKFORD.—We object to that as not being responsive to the question, and as being a voluntary statement made by the witness, without any question calling for the answer.

(Witness continuing.) Charles H. Moss' claim is in section 8, township 15 north, of range 14 west.

By Mr. BICKFORD.—We move to strike out the testimony of the witness, as not being responsive to a question addressed to him, and as a voluntary statement by him.

Q. Can you think of any other admissions made by Mr. Cobban in the case that you brought against him, in which he admitted making the locations himself?

By Mr. BICKFORD.—We object to that as not being the best evidence of the fact sought to be proved.

By Mr. MAYNARD.—How could you get any better evidence?

By Mr. BICKFORD.—The stenographer's notes will be decidedly better and will be competent evidence in a court of justice in this State. Nobody is allowed to testify to a declaration of that kind.

By Mr. MAYNARD.—Now, I will just tell you: I will have the stenographer's notes when you get Mr. Cobban on the stand.

By Mr. BICKFORD.—Thank you very much.

(Testimony of Chauncey L. Griswold.)

By Mr. MAYNARD.—If you do know that, you know something that I don't know, and if that is the practice, I will put it in now.

Q. And this Alvira M. Hardy and John H. Hardy, what relation are they to Mr. Cobban?

By Mr. BICKFORD.—We object to that as already having been testified to, and as being irrelevant and immaterial.

Q. Did you state that?

By Mr. BICKFORD.—Why, bless your heart alive, of course he said that; this testimony has gone in here two or three times.

Q. What relation are they to Mrs. Cobban?

A. They were introduced to me as being Mrs. Cobban's father and mother.

Q. And who is May Hawthorne?

A. I have no knowledge of Mrs. Hawthorne, only what has been told me.

By Mr. BICKFORD.—We object to that for the reason that it is hearsay and irrelevant and immaterial.

A. She was said to be Mrs. Jakways—Charles A. Jakways of the firm of Jakways & Faust claimed her to be her sister.

By Mr. BICKFORD.—We move to strike that out as being hearsay and irrelevant and immaterial.

Q. Did he tell you that Mrs. Hawthorne was her sister?

(Testimony of Chauncey L. Griswold.)

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial, and hearsay.

A. He did.

By Mr. BICKFORD.—We move to strike out the answer of the witness as being hearsay and irrelevant and immaterial.

Q. And who are these people, Arnold Mickels, and Clara Belle Mickels, if you know?

By Mr. BICKFORD.—We object to that as being irrelevant and immaterial.

A. They were—Mr. Mickels was a man that formerly logged for the Blackfoot Milling Company for several years under contracts.

Q. Do you know who located him?

A. He located himself under my directions and with the assistance of plans and maps of the township that I gave him to do so.

Q. You may state as to whether or not these entries were made under the same conditions and with the same agreements.

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial.

A. I wouldn't say that they were. Mr. Mickels told me—

By Mr. BICKFORD.—We object to anything Mr. Mickels told him upon the ground that it is hearsay and has already been gone over by the witness.

(Witness continuing.) —prior to the time of his mak-

(Testimony of Chauncey L. Griswold.)

ing his selection, the selections that he wanted to sell to, other than the Blackfoot Milling Company, and in selling claims to them, all he could get was credit on an old account incurred by a note that Mr. Mickels had given for an indebtedness that he incurred on Salmon Lake in Deer Lodge County for the Blackfoot Milling Company.

By Mr. BICKFORD.—We object to that as not responsive to the question and as being irrelevant and immaterial.

Q. I don't care for that Mr. Griswold. I am not interested in that matter, except that it may have some direct bearing upon the question that these entries were made in connection with Mr. Cobban.

A. They surely were.

By Mr. BICKFORD.—We move to strike out the answer of the witness, for the reason that it states a conclusion and not a fact.

(Witness continuing.) They surely were, because I mentioned the fact to Mr. Cobban, and told him what terms and under what conditions the transfer could be made. I also told Mr. Mickels that he could make the transfer to Mr. Cobban and the conditions under which he could make the transfer, and that Mr. Cobban would furnish him the money to make his final proof.

Q. Whereabouts were you when you told him this?

A. At Clearwater.

(Testimony of Chauncey L. Griswold.)

Q. Did Mr. Mickels have any means at all to your knowledge?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and does not prove or tend to prove any of the issues in this case.

A. What they were worth, no. I would say no, he had no means at all at that time.

Q. Did you have—do you know anything about the conditions under which these Hardys, the relatives of Mr. Cobban, made their locations? A. I do not.

Q. What arrangements he had with his relatives, you don't know.

A. I have no knowledge of it at all. I know what was said on one particular occasion.

Q. Stephen Tepper you have testified about, have you? A. Yes, sir.

Q. And also Dan McGillis? A. I think not.

Q. Well, what do you know about the agreement which was made by Mr. Cobban with Dan McGillis, if anything?

By Mr. BICKFORD.—We object to that for the reason that the witness has already testified to all the facts connected with the entry of Dan McGillis, and has so testified that they were all the facts in his direct examination, and the same is irrelevant and immaterial, and a repetition of the testimony already given.

A. I have no knowledge, only what Mr. McGillis told me himself after this inquiry was commenced.

(Testimony of Chauncey L. Griswold.)

Q. Well, what was that?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and a declaration of a party concerning title after he had parted with the title, and because it is hearsay, and the witness has already testified concerning it.

Q. Have you testified about it?

A. I have no recollection of the testimony.

Q. What was that, Mr. Griswold?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and a declaration of a party concerning title after he had parted with the title, and because it is hearsay, and the witness has already testified concerning it.

A. Why, the conversation between Mr. McGillis and myself was that when I went to him and asked him when he was standing on the steps of the Higgins Bank, which is the Cobban & Dinsmore's office in Missoula, if Mr. Cobban had advanced him money to make final proof on this land, and to pay all expenses if that agreement was made prior to the time of his making the entry, and if the money was advanced and if he had received his one hundred dollars over and above the expenses, and he answered, yes, he had.

By Mr. BICKFORD.—We move to strike out the answer of the witness upon the ground that it is irrelevant and immaterial, and hearsay, and is a declaration

(Testimony of Chauncey L. Griswold.)

of a party concerning title after he has parted with the title, and it is hearsay, and the witness has already testified fully concerning it.

Q. When was that?

A. It was after he had made his final proof, and made his transfer of the land to Mr. Cobban.

Q. At the place you have named? A. Yes, sir.

Q. C. C. Synder, and John Saleen, and John L. Dering are the persons that were located by Cobban himself?

A. So he claimed in connection with his direct examination.

By Mr. BICKFORD.—We move to strike out the answer of the witness for the reason that it is irrelevant and immaterial and hearsay.

Q. As I understand you, you have no knowledge of the fact yourself?

A. I have no personal knowledge, no, sir.

Q. Do you know the fact at all?

A. Yes, sir, that is, I knew Saleen, the other parties, I didn't know. I was not acquainted wilth them, I was acquainted with Saleen, from the fact that he drove a stage from Missoula to my place, at the Clearwater, from year to eighteen months.

Q. Drove a stage from where?

A. From Missoula to Clearwater.

Q. For eighteen months he drove a stage between the two points?

(Testimony of Chauncey L. Griswold.)

By Mr. BICKFORD.—We object to counsel repeating the answer of the witness to him.

Q. Did you become well acquainted with him?

A. Yes, sir, he was at my place there over night, three times a week. Stayed there over night.

Q. Are you able to state whether in making final proof in the case he had means of his own?

By Mr. BICKFORD.—We object to that for the reason that it has already been testified to by the witness.

A. He should have, if he didn't.

Q. And who was Dan McGillis, who was he?

A. He is what is termed in Missoula County a "lumber-jack." He worked in different camps.

Q. Do you know anything about any of these other men that Cobban located about their financial wealth.

A. Well, as far as Dering and Snyder are concerned, I have no knowledge of those people. Mr. Dunham—

Q. Mr. Dunham, did he testify? A. Yes, sir.

Q. He was the guide, was he?

A. Yes, he is the one that Mr. Cobban testified that he located.

By Mr. BICKFORD.—We object as being a voluntary statement of the witness and as irrelevant and immaterial.

Q. Do you know anything about the financial condition of Charles Cloutier at that time?

By Mr. BICKFORD.—We object to that for the rea-

(Testimony of Chauncey L. Griswold.)

son that the witness has already testified concerning that matter.

A. I do, yes, sir.

Q. I don't think that, question was asked at all, Mr. Bickford.

A. I have no recollection of it, anyway.

Q. I don't think you can find a single sentence in regard to it.

By Mr. BICKFORD.—I think that has already been testified to.

A. I haven't looked for it, for the reason that my recollection is that I have testified to that.

Q. Will you look over this list, of all these that are on this list that I have called attention to and state in a general way if you knew one of them that had a dollar that they could legitimately use for the purpose of —or enough money to make an independent purchase of a claim under the Stone and Timber Act.

By Mr. BICKFORD.—We object to the question because the general character of the people has already been testified to by the witness, and it is irrelevant and immaterial. And it is not competent for the witness to testify to that matter, and it is not one of the qualifications or the requirements that a person should be possessed of any particular amount of money or property to entitle him to make entries under the Stone and Timber Act.

By Mr. MAYNARD.—There has never been any ques-

(Testimony of Chauncey L. Griswold.)

tion as to the competency of anything where there is an allegation as to whether or not they had money of their own to make this entry. It has been shown in each and every case that they didn't have any money. Now, I want to know from Mr. Griswold, of his own knowledge whether they would be able, independently to make a timber and stone claim.

Mr. BICKFORD.—We would perhaps withdraw our objection if Mr. Griswold knew any more about these people and their having any means or property, if he knows about the people in the community in which he lives.

By Mr. MAYNARD.—I desire to say that for the purpose of gratifying counsel I will change that question slightly and make it apply to each one of the parties separately, but it will take more time to do that.

A. Shall I read over the names on the list?

Q. You can read them yourself; just look them over.

A. Well, most of them I am prepared to testify about.

Q. Very well, just name the ones that are on the that list there.

A. There is Charles Cloutier, John Gilles, M. J. Doney, Thomas Pelky, E. A. Muchmore, Albert Stewart, Belle Bryan Gilles, Edgar Lehman, Harriet Watson, M. B. Watson, Matie Watson, D. E. Watson, Mathilde Dodd, Lizzie Dodd, John Saleen, Dan McGillis, Arnold Mickles, Clara Bells Mickles, and Stephen Tepper.

(Testimony of Chauncey L. Griswold.)

Q. What have you to say in regard to them?

A. I have got this to say in regard to them. They have no means of their own whereby they could go on and take up the land and pay for it at the rate of two dollars and a half per acre, or any other amount.

By Mr. BICKFORD.—We move to strike out the answer of the witness with reference to the financial standing of the parties mentioned, because it is irrelevant and immaterial and is a repetition of the testimony already given, and is not based upon any knowledge of the witness and does not prove, or tend to prove any of the material issues involved in this case.

At this point the hearing was adjourned until the next day, March 28th, 1902, at ten o'clock A. M.

Friday, March 28th, 1902, ten A. M.

Hearing resumed pursuant to adjournment.

CHAUNCEY L. GRISWOLD, recalled.

Direct Examination (Continued).

(By Mr. MAYNARD.)

Q. Did you hear the testimony of Mr. McLaughlin when he was on the stand? A. I did.

Q. Did you hear him admit the fact that he had received this letter from Mr. Campbell?

A. I did.

Q. And deny having met at the Florence Hotel in Missoula and having a talk with you in connection with it? A. I did.

(Testimony of Chauncey L. Griswold.)

Q. I wish you would give us the facts in regard to that?

Mr. WALSH.—We object to this question for the reason that it is incompetent, irrelevant and immaterial, and an effort on the part of counsel to contradict his own witness.

A. The facts of this matter are that I was sitting in the Florence Hotel in Missoula and Mr. McLaughlin came in there and came directly to me, and said is your name spelled G-r-i-z-z-l-e?" says I, "No, sir, it is not spelled that way, although some do spell it so," and I inquired why he asked that, and he said a man by the name of Campbell had written a letter to W. A. Clark of Butte, the contents of which were to the effect that Grizzle and Kilbourn were not doing the fair thing in selecting locations under the Timber and Stone Act for him, we were selecting inferior lands and leaving better lands for other purposes; and I said at that time that there was no truth in that; he admitted that he knew there was nothing in it as he had his man Sparks estimating the timber we were selecting; I asked him what the effect of it was going to be, and he said never to pay any attention to it, keep right on; immediately after that I went to Mr. Cobban's office and talked the matter over with Mr. Cobban, and he said he had heard of it.

Mr. WALSH.—We object to the recital by the witness of the conversation with Cobban, or the conversation with McLaughlin, and we move to strike out the testimony of the witness so far given on the ground that

(Testimony of Chauncey L. Griswold.)

such conversations are incompetent, irrelevant and hearsay, and not binding upon any of the parties to this action.

A. Mr. Cobban told me the same, that I should pay no attention to it, but keep right on the same as I had been doing.

Q. Now, Mr. Griswold, you may state as to whether you knew anything about this letter that McLaughlin told you that Campbell had written, other than what McLaughlin himself stated?

Mr. WALSH.—We object to that question for the reason that it is leading.

A. Not a single thing, had no way of knowing, it was correspondence between W. A. Clark and this man Campbell.

Q. Who was Campbell?

A. He was a man that had formerly been in the employ of the Blackfoot Milling Company, building a dam at the foot of Placid Lake, he was considered to be superintendent of their improvements, and in fact was.

Q. Did you know of the fact of Mr. McLaughlin's connection with Senator Clark at that time?

Mr. WALSH.—We object to this question for the reason that it is leading.

A. I did, only by hearsay and what I had seen in the press papers of the country, wherein Mr. McLaughlin was acting for the Western Lumber Company in the capacity of general manager; and Mr. McLaughlin had

(Testimony of Chauncey L. Griswold.)

paid me checks, gave me checks, signed Western Lumber Company by H. W. McLaughlin, Manager.

Mr. WALSH.—We move to strike this out for the reason that it is hearsay, and further because it is irrelevant, immaterial and incompetent, because the checks themselves are the best evidence of what the contents were and how they were signed.

Q. Who do you say the man was that was estimating the timber, what was his name?

A. William Sparks.

Q. Did you meet him up in the woods during that spring and summer?

A. I did quite frequently, yes, sir.

Q. Just what was he doing?

Mr. WALSH.—We object to that, the witness has testified all about Sparks (I will show it to you) told just exactly what he was doing anl told who Sparks said he was working for.

Q. Do you recollect, Mr. Griswold, of having a conversation with Mr. Cobban in which he spoke about his anxiety to have the estimates made as soon as possible.

Mr. WALSH.—We object to this question for the reason that it is leading, also because it is hearsay, and for the further reason that it is irrelevant and immaterial.

A. I do; on two or three different occasions Mr. Cobban requested me to see the estimators who were doing the work in the upper Blackfoot on these different

(Testimony of Chauncey L. Griswold.)

claims that are in controversy, and asking me to have them hurry and get through as soon as they could, so that he could turn the timber over to Mr. Clark and receive the money and thereby meet obligations that he had standing out.

Q. And these estimators were who?

A. William Sparks and James Hambly; one Sparks in the employ of Mr. McLaughlin for the Western Lumber Company, and James Hambly for R. M. Cobban.

Q. Were you here when the witness Allen Dodd gave some testimony relative to his being drunk at the time that he made his affidavit before Mr. Inspector Zeverly?

A. I was not present at the time he made the affidavit, I have read his testimony, I was not here.

Q. What was the fact, Mr. Griswold, as to whether Mr. Allen Dodd at the time he gave his testimony in Missoula before Mr. Special Inspector Zeverly, was he drunk or sober?

A. Well, he was not drunk by any means.

Q. What was he, was he sober or under the influence of liquor, what was his condition if you know, had he been drunk?

Mr. WALSH.—We object to this as leading and for the further reason that it is irrelevant and immaterial.

A. He had at the village of Bonner when we were on our way down the Blackfoot to come to Missoula, I had stopped at the saloon there and bought a drink of liquor for each of the three people in company with me, that is one drink we had that day on the road after

(Testimony of Chauncey L. Griswold.)

meeting the Dodds, sixty-seven miles from Missoula, we rode seven miles and came into Missoula at noon, I introduced the gentlemen to Mr. Zeverly in front of the Missoula Hotel and I took my team, rather the team, back to the barn and went to my home and got my dinner. In the afternoon after lunch I went to the hotel and met Mr. Zeverly, and in company of Allen Dodd went to Mr. Zeverly's room where Mr. Dodd did make his testimony; I will positively swear he was not drunk or under the influence of liquor.

Mr. WALSH.—We move to strike out the answer of the witness as not responsive to any question, and as also being a volunteer statement of the witness.

Q. I am asking the witness for all he knows about the circumstances connected with the alleged intoxication of Dodd as he testified himself?

Mr. WALSH.—You did not ask him any such question as that.

Q. And what you have testified to would be an answer to that question, if I had asked it?

Mr. WALSH.—We object to this question for the reason that it is leading; and for the further reason that it is irrelevant and immaterial.

A. I so considered it.

Q. What were you about to say when you were interrupted?

A. Since Mr. Dodd has made the affidavit before the Honorable Examiner he has said to good reputable men in the town of Missoula that he was not drunk.

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—We move to strike out the statement of the witness as being a volunteer statement and not called for by any question by counsel, and as being irrelevant, immaterial and hearsay.

Q. Did you hear the witness Mr. John B. Reeve here in his testimony before the Examiner say that you went after him to go up into your lawyer's office to make an affidavit? A. I did, yes, sir.

Q. What is the truth in regard to that, did you or did you not?

Mr. WALSH.—We object to that question for the reason it is leading.

A. I did not.

Q. You may state as to what you said to him about that if anything?

A. I never said one word to Mr. John B. Reeve in regard to making an affidavit before Mr. Zeverly or Mr. Draffen.

Q. Well if not before Mr. Zeverly or Mr. Draffen, before anybody else?

A. No, sir, not any other person.

Q. During a long ways back in Mr. Thomas B. Bryan's testimony here before the Examiner in which he on cross-examination said that you had told him in Butte that you had sworn falsely and would do so again, or words to that effect, what have you to say with regard to that conversation, if any, that you had with Mr. Bryan?

A. There is absolutely not a word of truth in any

(Testimony of Chauncey L. Griswold.)

of the statements Mr. Bryan made on his cross-examination, after he was discharged and paid off by the Government he was recalled and did make this statement that I had told him in the city of Butte that I had sworn and would swear falsely again in order to win this case, there is absolutely not a word of truth in it, I have never made such a statement to him in my life or any other man.

Q. Do you know of the fact of his appearing, of his making one of the affidavits before Mr. Inspector Zeverly? A. I do.

Q. Do you know of the fact of his having testified before the grand jury? A. I do.

Q. Do you know of the fact of his having had read over to him the affidavit which he—or the testimony which he gave, the affidavit which he made before Mr. Zeverly and the same affidavit which was read over to him before the grand jury afterwards in the city of Butte, and his saying that each and every one of the questions and answers were true as therein stated except in one or two immaterial points?

Mr. WALSH.—We object to this as leading and calling for a statement of facts from the witness which it is manifestly impossible for him to know, that is to say that the witness was present before the grand jury at the time when Bryan was examined before the grand jury and therefore it is impossible for him to know what was said by Bryan; and the whole thing is immaterial.

A. I was present when Mr. Bryan made the affida-

(Testimony of Chauncey L. Griswold.)

vit before Mr. Zeverly and heard the affidavit or the contents thereof read to Mr. Bryan in the city of Butte in a room at the Hotel Thornton I believe, wherein he admitted that every material point or fact contained in the affidavit was absolutely true in every particular.

Mr. WALSH.—Now we move to strike out the statement of the witness for the reason that it is immaterial and irrelevant.

Q. Do you remember of me being present at the time and reading this affidavit that he made before the inspector to him and asking him that question?

A. I do, yes, sir.

Q. And his admitting to me that I had read over to him that affidavit and the entire contents of the same?

Mr. WALSH.—We object to this question for the reason that it is leading; for the further reason that it is irrelevant anl immaterial.

A. Yes, sir.

Q. Do you remember the fact that while Mr. Bryan was in Butte, called there by the Government, of seeing him in the company of Mr. Cobban?

Mr. WALSH.—We object to this question for the reason that it is leading and for the further reason that it irrelevant and immaterial.

A. I do.

Q. Do you know of the fact of his having money in his possession shortly thereafter?

Mr. WALSH.—We object to this question for the

(Testimony of Chauncey L. Griswold.)

reason that it is leading and for the further reason that it isirrelevant and immaterial.

A. Well, I could not say that I do; Mr. Bryan told me he had money enough to pay—

Mr. WALSH.—We object to this question for the witness as not responsive to any question, and we ask the Master again to instruct this witness not to tell what he heard unless he is asked to do so.

Q. I will ask you to state, Mr. Griswold, if you know anything about the matter, either by seeing it or what Mr. Bryan told you?

Mr. WALSH.—We object to this question as altogether immaterial and irrelevant and as hearsay

A. That is both what I say and what Mr. Bryan told me.

Q. Yes, go on.

A. Mr. Bryan, in the evening when he was about to be discharged—the witnesses could not get their pay in Butte—and Mr. Bryan told me that he did not have money enough to pay his expenses home.

Mr. WALSH.—Now we move to strike out the hearsay statement which has been testified to by the witness, that is to say what Bryan told him in Butte.

A. I went with Mr. Bryan to the office of Cobban and Casey in Butte and he was not there, and we afterwards went to a building where he had a room; we did not find him there and we did go down to the California Wine House and met Mr. Jemison and inquired for Mr. Co[b]-

(Testimony of Chauncey L. Griswold.)

ban and he said he would be there in a few minutes; while we were standing there talking, Mr. Cobban came in the back way; Mr. Cobban and Mr. Bryan went and sat at one of the tables as far away as he could get; Mr. Cobban took out his book, wrote and figured or done something in his book for a matter of five minutes, and got up and went out of this building down the street, but I did not see Mr. Bryan any more after that evening, did not see him again until I got to Missoula.

Mr. WALSH.—Now, we wish to strike out this last statement of the witness as being irrelevant and immaterial and not responsive to any issue in the case, and as not called for by any question propounded by counsel.

Q. Have you finished? A. Yes, sir.

Q. Did you hear the testimony of Mr. Reeve in regard to his claim of his contracting with the Big Blackfoot Milling Company? A. Yes, sir.

Q. You may state if you are able as to whether or not from your knowledge Mr. Reeve had any means whatever to enter into any contract with the Big Blackfoot Milling Company or any other company which would necessitate the disbursement of any sum of money whatever by himself.

Mr. WALSH.—We object to this question as immaterial, irrelevant and as not responsive to any issue in the case and as leading.

A. I will state this from my own personal knowledge that John B. Reeve never did enter into any contract

(Testimony of Chauncey L. Griswold.)

of whatever form or nature with the Blackfoot Milling Company of Bonner.

Cross-examination.

(By Mr. WALSH.)

Q. You heard Mr. Reeve say, did you, that he had entered into a contract with the Blackfoot Milling Company? A. Words to that effect, yes, sir.

Q. You heard that? A. Yes, sir.

Q. You swear he so testified?

A. To the best of my recollection.

Q. Your recollection about that is about as good as it is about any of these other matters?

A. I don't know; it is pretty fair, my recollection is.

Q. I want to know whether it is any better or any worse with regard to that particular fact than it is with regard to any other.

A. I will say it is just as good.

Q. It appears from the testimony that you gave a moment ago, Mr. Griswold, that Mr. Bryan was in the company of Mr. Cobban for a matter of say five or ten minutes, and apart from you in the California Wine House? A. In my presence, yes, sir.

Q. About how long would you say?

A. A matter of five minutes.

Q. How long prior to that time had he been in your company and in the company of no one but yourself?

A. Mr. Bryan?

Q. Yes.

(Testimony of Chauncey L. Griswold.)

A. Why, we were together a greater portion of the day that we were in the city of Butte.

Q. Do you consider it more suspicious to have him in Mr. Cobban's company than in yours?

A. Not a bit.

Q. You did not corrupt Mr. Bryan, then, when he was over there? A. Corrupt him?

Q. Yes.

A. No, sir, I did not.

Q. You were indicted by the grand jury for perjury in swearing to these final proofs in connection with the entries mentioned in the bill of complaint, were you not?

A. I was, yes, sir.

Q. Also for subornation of perjury in connection with the same? A. Yes, sir.

Q. How many indictments were returned against you?

Mr. MAYNARD.—We object to this matter because the record is the best evidence, and because it has already been inquired into on cross-examination of Mr. Griswold when he was on the stand before.

A. Well, that I do not know, I do not know that I was ever told.

Q. Whatever were returned against you have been dismissed? A. Yes, sir.

Q. By direction of the Attorney General of the United States?

A. By the Department of Justice, as I understand it, of the United States.

Q. And that was in accordance with an agreement that

(Testimony of Chauncey L. Griswold.)

had theretofore been made with you that you should be immune against punishment on account thereof?

A. There had been no such agreement made.

Q. However, the indictments were dismissed?

A. Yes, sir.

Q. Do you mean to say that you told about or professed to tell about this matter and submitted to being indicted without any promise or agreement on the part of anyone that you were not to be prosecuted?

A. I have not said so.

Q. What is the fact about that?

Mr. MAYNARD.—We object to this as not cross-examination on any matter that was brought out on the redirect examination, because when the witness was on the stand before the same subject matter was inquired into.

A. The fact of the matter is that Mr. Zeverly told me that he thought he could have, and would try to have the indictments against myself and others who testified to the facts before him in the city of Missoula—he would try to have them dismissed; there was no promise made that he would do it.

Q. Did they dismiss as to these other parties who made the affidavits?

A. To the best of my recollection they did; yes, sir.

Q. That is your information about the matter?

A. Yes, sir.

Q. And as a matter of course, you have likewise immunity on account of anything you testified to in this hearing before Judge Blake? A. I was not.

(Testimony of Chauncey L. Griswold.)

Q. You say you have not been made any promise of any character with reference to any testimony that you might give here before the Master?

A. I don't know how I could be promised.

Q. Answer my question. You say you have not been made any promise of any character with reference to any testimony that you might give here before the Master?

A. I have not.

Q. So that there has been no promise made of any character and no inducement of any character held out to you to testify in this hearing? A. No, sir.

Q. And so far as you know, no promise has been made by the Department of Justice or anybody connected with this matter that would in any way prevent you from being prosecuted for perjury for any testimony you may have given on this hearing that was willfully false?

A. I have no reason; further, I may say I have not said one word in direct or redirect examination that is not the truth.

Q. Answer the question? And so far as you know, no promise has been made by the Department of Justice or anybody connected with this matter that would in any way prevent you from being prosecuted for perjury for any testimony you may have given on this hearing that was willfully false?

A. Why, no, sir, there has been no promise of the kind made me.

Q. We are glad to know that Mr. Griswold.

A. That is so.

(Testimony of Chauncey L. Griswold.)

Q. Now, at the time when you gave your testimony before, in chief, you had in your hand, didn't you, a printed copy of the bill of complaint?

A. Well, I presume that I had, I have had it in my possession.

Q. Didn't you, as a matter of fact, have it in your hand, refer to it continually during the time you were giving your testimony in chief before?

A. Well, I presume that I had; I would not say I had not.

Q. And would not say that you had? A. No, sir.

Q. Don't you know that you had?

A. No, sir, I do not.

Q. And you don't know that counsel for the defendant continually objected to your referring to the printed bill of complaint which you held in your hand at the time you were testifying?

A. I remember that there was some objection stated in regard to that.

Q. No, no, but answer this question; don't you remember that they objected to your referring to the printed bill of complaint that you had in your hand?

Mr. MAYNARD.—We object to that because the record which the counsel has before him is the best evidence of that fact and in this record that speaks for itself, and so far as the witness is concerned he has the right to refresh his recollection by that record.

Before you answer that question I will wait until the

(Testimony of Chauncey L. Griswold.)

Examiner comes here, because I want them to produce the books themselves, or furnish me the page where it is; I don't know where it is.

Mr. WALSH.—I am asking him this question; I am not questioning him concerning any documents signed by him or anything of that character; I am asking him if he does not remember that we objected to his referring, at the time that he was giving his testimony in chief before to the printed bill of complaint that he held in his hand; I am endeavoring to show how correct his recollection is of things that transpired about two months ago.

Mr. MAYNARD.—My point is, Mr. Examiner, that if they desire to refer to Mr. Griswold's testimony as appears of record before them in regard to the use of the printed bill of complaint, all of which they claim that Mr. Griswold swore to and appears on their printed record, that they allow him to inspect that portion of the record which contains this testimony in question.

Mr. WALSH.—We contend, if your Honor please, that that would be no part of the cross-examination of the witness, to ask him if he did not testify so and so, and then, before he answered, give him an opportunity to refresh his recollection at to the testimony he gave.

The EXAMINER.—In this matter I am of the opinion that counsel cannot require the submission of this record of the testimony to the witness to him for his examination.

Mr. WALSH.—Answer the question. Don't you re-

(Testimony of Chauncey L. Griswold.)

member that we objected to your referring to the printed bill of complaint that you had in your hand?

A. I do, yes, sir.

Q. Now, tell us what the fact is as to whether you did or did not at the time of giving your testimony in chief have a copy of the printed bill of complaint in your hand, and whether you did not refer to that constantly in the course of your testimony?

A. I did in giving descriptions of the different locations?

Q. Yes, sir, in giving the descriptions?

A. Yes, sir.

Q. You remember about that now?

A. Sure, I remembered it all the time.

Q. Oh, you remembered it all the time?

A. Sure I did.

Q. Your memory is quite accurate about the details of this transaction evidently from the commencement?

A. Refreshed by memorandums that I have, it is.

Q. I would like to ask you whether you wrote the body of this Exhibit No. 201 which I show you?

A. Well, it looks very much like my writing.

Q. Answer my question, whether you wrote it or not?

Mr. MAYNARD.—He has answered as best he can.

A. Well, I should say I did write it.

Q. That is in your handwriting?

A. It so appears to me.

Q. This says: "Received from C. L. Griswold $35.00

(Testimony of Chauncey L. Griswold.)

to apply on loan. Helena, Aug. 2d, 1899. Lizzie Wells." Did you loan that money to Mrs. Wells?

A. I have no recollection of doing anything of the kind.

Q. You charged up against Mr. Cobban in your account with him, didn't you?

A. I have no recollection of doing anything of the kind.

Q. If you did not loan this money to Mrs. Wells, what is your object in getting her to sign it?

A. I don't know that I did get her to sign it; I have no recollection of it in any way or manner.

Q. You wrote it, didn't you?

A. Well, I should say that I did.

Q. That is Mrs. Wells' signature, too, isn't it?

A. I have no way of knowing, I am not acquainted with the lady's handwriting, no, sir.

Q. There is no indication that it is anybody else's signature was on it besides hers that you can discover?

A. No, sir.

Q. Do you mean to say that that matter has absolutely passed out of your mind?

A. Yes, sir, entirely so.

Q. And you don't know any reason at all that would prompt you to take this from Mrs. Wells unless you had actually loaned her thirty-five dollars?

A. No, sir, if I took it from Mrs. Wells that would be the reason that I done so.

Q. Well, you testified in answer to a question from counsel, didn't you, that you never took from any of these

(Testimony of Chauncey L. Griswold.)

witnesses, from any of these entrymen or entrywomen, any note, mortgage or other writing evidencing the amount of any money, the loan of any money on behalf of yourself or Mr. Cobban to them?

A. In my direct testimony?

Q. In your testimony yesterday?

A. I did not say anything of the kind.

Q. What did you say about that?

A. I said I never took any security or note.

Q. What do you mean by note?

A. A promise to pay.

Q. Well, what did you take?

A. In various cases I took slips of paper the same as that, turned it in to Mr. Cobban for which he would give me credit.

Q. The same as this No. 201? A. Yes.

Q. This instrument signed by Mrs. Wells?

A. Yes, sir, similar to that; and the majority of those I have a very distinct recollection of taking.

Q. Well, what do you mean by a majority of those you have a distinct recollection of taking?

A. A majority of the simple receipts wherein I would pay out money that Mr. Cobban had deposited in my hands, for this purpose, I would take receipts similar to that, and the first time I would go to Missoula I would turn them over to Mr. Cobban and he would give me credit for them.

Q. A memorandum to the effect that you had loaned so much money to the entrymen by way of a loan?

(Testimony of Chauncey L. Griswold.)

A. I have not said anything of the kind; it was advanced for this purpose.

Q. You observe the "loan"? A. Yes, sir.

Q. Didn't you state the memorandas you took were substantially the same as these?

A. I said they were similar.

Q. Did you ever take any other than that the money was advanced by way of loan the same as this money?

A. Not to my recollection; I have no recollection of writing that.

Q. The other memorandas all so far as you now recollect left out the word "loan"?

A. I would not say that, I say they are similar to that.

Q. Yes, but what is the fact about the memorandum receipt; that the money was advanced to them by way of loan?

A. There was nothing said in regard to a loan.

Q. I was not asking you about that was said, I was asking you what these memoranda said about the matter; did they say as this does that the money was advanced to way of a loan, or did they not mention the fact that the money was advanced by way of a loan?

A. I cannot say.

Q. Don't know whether they did or not?

A. No, sir, I should say they did not.

Q. You testified upon your examination before that some time along about the first of September of 1899 Mr. Cobban told you that whatever money was advanced to these people was to be advanced by way of a loan, and

(Testimony of Chauncey L. Griswold.)

that you were not to make any agreement with parties before final proof that you would buy the land from them; is that your recollection about that matter now?

A. Yes, sir.

Q. And I think you then testified that these instructions were not given you prior to that time?

A. I have no recollection of it being given me prior to that time.

Q. Is your recollection quite clear about that?

A. Yes, sir.

Q. And as a matter of course, if these instructions were not —

Mr. MAYNARD.—Now, Mr. Examiner, counsel is constantly referring to the fact that the witness Griswold answered so and so to questions that were propounded at that time; now I ask counsel to explain why he claims the privilege of going over the same ground again, and I object to the counsel covering and going over the same ground with the witness by way of what he calls now cross-examination, having once before used that privilege, had that privilege.

Q. I desire to know now, Mr. Griswold, whether it is—

Mr. MAYNARD.—Just wait; all yesterday afternoon whenever I would try to ask this witness a question, both of these gentlemen every time the question was asked would make the same objection and then insist upon the fact that I should not inquire into the subject matter at all; now I claim the same right this morning.

(Testimony of Chauncey L. Griswold.)

The EXAMINER.—That is your privilege, it all goes into the record and it will, of course, be reviewed.

Mr. WALSH.—Whenever I ask the witness over the same subject matter that I did on the other examination, and the counsel calls my attention to it in the record as I did, I will be very much pleased and will desist.

Mr. MAYNARD.—I ask counsel if he did not go over identically the same ground he is now traversing.

Mr. WALSH.—I simply call the attention of the witness to that, with reference to some matters collateral to that subject.

Q. If these instructions were not given you prior to the first of September, or rather I want to know from you, Mr. Griswold, whether it was in view of the fact that these instructions were not given to you by Mr. Cobban until about the first of September that you now say that most of these memoranda, so far as your recollection goes recited nothing about a loan in them?

Mr. MAYNARD.—He did not say that.

Mr. WALSH.—I am asking him if he does say so.

Mr. MAYNARD.—I object to your assuming in your question that he has answered so and so when he has answered just the opposite.

Mr. WALSH.—In what, for instance?

Mr. MAYNARD.—You say in the question you just put to him that most of these receipts did not show the word "loan."

(Testimony of Chauncey L. Griswold.)

Mr. WALSH.—I understood the witness to testify to that.

Mr. MAYNARD.—What he testified to was that they were similar to this receipt, the ones he received from the other entrymen and entrywomen, but just whether the word "loan" was in it he could not say.

Mr. WALSH.—He said his best recollection is they were not.

Mr. MAYNARD.—No, he did not.

Mr. WALSH.—If Mr. Griswold wants to change his testimony about that.

Q. What is your best recollection about that?

A. I will have to have the question again.

Mr. WALSH.—Well, withdrawing the question for the present and putting another question about this matter, you told us, I believe, that as you took these memoranda from the parties evidencing the advancement of money to them you turned them into Mr. Cobban? A. Yes, sir.

Q. August 2d, 1899, was the day on which Mr. Gilles made his final proof, wasn't it?

A. My recollection is that Mr. Gilles made his proof on the first, but I am not positive about that.

Q. Either the first or second? A. Yes, sir.

Q. Now, in view of the paper which is shown you—

Mr. MAYNARD.—If you are not positive in regard to that entry about that Mr. Gilles made will speak for itself, and before testifying in regard to that mat-

(Testimony of Chauncey L. Griswold.)

ter if you desire to have your memory refreshed in regard to the matter you need not testify until the original papers are produced.

The EXAMINER.—That is a paper which he has a right to inspect.

Q. In view of the statement in this paper, received from C. L. Griswold, on account of loan, or loan, what have you now to say as to Mr. Cobban having directed you prior to the first day of September, not to advance any moneys to parties except—

Mr. MAYNARD.—He never said it was the first of September, he said it was about that time as near as he could recollect.

Mr. WALSH.—That is what I would say, it was about the first of September that Mr. Cobban told him, the two cases you desire to indicate were about the first?

A. I do not desire to indicate anything for the kind.

Q. Do you desire to say now that Mr. Cobban in view of this statement that is shown you did not state anything to you about this money being advanced by way of a loan prior to the first of September?

A. My recollection about it is Mr. Cobban told me that on or about the first of September.

Q. Answer the question I have asked you, in view of the statement shown you do you desire to say now that he did not say so to you prior to the 2d day of August, 1899?

(Testimony of Chauncey L. Griswold.)

A. To the best of my recollection, he did not until about the first of September.

Q. Explain then why you put the word "loan" in there?

A. For the simple reason that I had nothing to do with the agreement whereby Mr. Cobban advanced the money to John Gilles to make this particular land entry or final proof.

Q. How did you know he had advanced it to him by way of a loan?

A. I did not know anything about it.

Q. Why, did you put the word "loan" in the receipt?

*A. I presume I did it at Mr. Gilles' suggestion.

Q. You presume you did? A. Yes, sir.

Q. You don't know anything about it?

A. No, sir.

Q. Evidently you understood this money was advanced to Mr. Gilles by way of a loan at the time?

A. No, sir.

Q. Did you put it in there for the purpose of deceiving anybody if you did not know anything about it?

A. No, sir.

Q. It recited the truth as you understood it?

A. I did not understand anything about it.

Q. Now, when you were examined about this matter before with the printed copy of the complaint in your hand, you were asked about each one of the entry-

*In correcting testimony witness says the receipt was written by Mr. Cobban.

(Testimony of Chauncey L. Griswold.)

men concerning whom you had knowledge, were you not? A. I was, yes, sir.

Q. When counsel got through with you, you said, didn't you, you had no personal knowledge of any others than those you had testified to?

A. Only by hearsay.

Q. Did you tell anything about Mr. Stewart's entry when you were upon the stand before?

A. No, sir, I did not.

Q. Your memory is not accurate enough for you to tell whether you said anything about Mr. Stewart's entry or not?

A. I could not tell.

Q. But if you did testify to Mr. Stewart's entry that would tell whether you told about this conversation that you now profess to tell about that occurred at the corner of the land he subsequently entered, in the presence of yourself, Mr. Cobban and Mr. Jackaways?

A. That I could not say.

Q. Your memory is not accurate enough to tell about that?

A. It is not, I testified in regard to a hundred.

Q. You heard counsel say repeatedly on yesterday that he did not want you to tell anything about what you had testified to before, didn't he, only those matters that had been overlooked?

Mr. MAYNARD.—That is all I assumed to ask him.

A. I believe I do recollect of his saying that.

(Testimony of Chauncey L. Griswold.)

Q. You think you remember something of that character? A. Yes, sir.

Q. Yesterday is not a very long period to remember, is it?

A. Why, no, sir, it is not a very long period to remember.

Q. You are not able to say positively about that, you think you heard something of that character?

A. Yes, sir, words to that effect.

Q. And you are not able to tell us at all whether you did or whether you did not tell about that supposed fact concerning Mr. Stewart's entry at the time you were examined before?

A. No, sir, I am not able to tell you.

Q. Have you any recollection that you did testify about it? A. I have not.

Q. When did you first talk with Mr. Maynard about that Stewart circumstance?

A. Well, I could not say that, what was the first conversation I had with Mr. Maynard in regard to it.

Q. Well, when did you have any conversation with him about it?

A. Why, at different times, in different places, covering the last six months.

Q. You told him about it some six months ago, did you?

Mr. MAYNARD.—He did not say that.

The EXAMINER.—Let Mr. Walsh have the witness and put in your objections if you wish to.

(Testimony of Chauncey L. Griswold.)

Mr. MAYNARD.—Certainly, I object to that. The objection I make is this, that the counsel assumes that the witness said or told him six months ago, when in truth and in fact, the witness said that it was difficult for him to remember over a period of six months; that he had had different conversations with me and just when it was he could not tell. I object to his distorting the answer and saying six months ago he told me.

(Testimony repeated by the stenographer.)

A. I did, in connection with the Nels Opsata claim, the Muchmore, Doney and Hoyt claims, and a good many others located around the town of Ovando.

Q. Did you tell Mr. Zeverly about it?

A. I have no recollection of telling Zeverly about it, I may have done so, I would not say I did or didn't.

Q. But you testified about it at the time your testimony was taken before Mr. Zeverly?

A. I have no recollection.

Q. You don't know whether you did or did not, is that what you desire to say?

A. I believe that I did not.

Q. What business transaction did you ever have with Mr. Reeve besides trading horses with him?

A. Not in the least.

Q. What business associations or relations did you ever have with him in the State of Wisconsin?

A. None.

Q. What crime did you ever hear of his committing in the State of Montana? A. Montana?

(Testimony of Chauncey L. Griswold.)

Q. Yes? A. None.

Q. What crime did you ever hear that he was accused of?

A. I do not recollect that I ever heard of his being accused of any crime?

Q. What man did you ever hear say that he would not believe Mr. Reeve under oath?

A. I would not like to enumerate them, there is quite a few.

Q. We would like to have you?

A. I cannot do it.

Q. What man did you ever hear say Mr. Reeve was not honest?

A. I don't know that I have ever heard anyone say that he was not honest?

Q. What business transaction have you any knowledge of that he was connected with, that anybody accused him of dishonesty in connection with it?

A. Logging contract on the Blackfoot river.

Q. What logging contract?

A. Small contract that he took of George Hammond.

Q. Whom did you hear say anything about that?

A. Mr. Hammond.

Q. George Hammond? A. Yes, sir.

Q. When and where?

A. Different times, different places in the city of Missoula.

(Testimony of Chauncey L. Griswold.)

Q. Give us one time and one place, now what did Mr. George Hammond say concerning his honesty?

A. Said he was a dishonest old rascal.

Q. When did he say this?

A. I could not give you the date, he said it to me in Missoula, said it to me in his camp at or near the mouth of Gold Creek.

Q. What did Mr. Hammond say he had done that was dishonest?

A. He said he had taken a contract to put these logs in the river for him, or haul them, and he had beaten him out of a lot of hay and grain and provisions, and that he was not honest.

Q. You heard Mr. Hammond say that?

A. Mr. Hammond said that to me, yes, sir.

Q. Do you know where Stephen Tepper is?

A. I know that he is dead, or at least I have been so informed; I have every reason to believe he is dead.

Q. You paid for the final proof on his claim, didn't you? A. I did not.

Q. You did not? A. No, sir.

Q. What was the receipt that you identified?

A. It was a receipt from the business manager of the "Missoulian," a paper printed in the city of Missoula, wherein we had to get an affidavit from the editor that the publication had been made and run in the paper for such a length of time, for which I paid for Mr. Tepper.

Q. Well, was that his timber claim?

(Testimony of Chauncey L. Griswold.)

A. No, sir, I think not, my recollection is that this particular receipt was money that was paid for the advertising of a homestead that he had taken in section 14.

Q. That is your recollection about that?

A. Yes, sir.

Q. You have not got any receipt that you paid for the advertisement of his timber claim, have you?

A. No, sir, I have not.

Q. You were a witness for him, were you not, on his timber claim?

A. I believe not, I have no recollection of it, I may have been.

Q. Were you a witness on his homestead?

A. I think I was.

Q. That is the one you say he had agreed to sell?

A. Yes, sir.

Q. Prior to the time he made final proof on it?

A. Prior to the time, yes, prior to the time he made final proof, he commuted.

Q. Prior to the time he made final proof and commuted his homestead he had made an agreement to sell and transfer the land to Mr. Cobban?

A. He told me so, yes, sir.

Q. He did tell you so? A. Yes, sir.

Q. I show you the papers in connection with the homestead proof of Mr. Stephen Tepper, and ask you if that is your signature to what appears to be your testimony in connection with that case?

(Testimony of Chauncey L. Griswold.)

A. I should say that it was, yes, sir.

Q. It appears that in that connection you were asked the following question: "Has the claimant mortgaged, sold or contracted to sell any portion of said homestead," to which you answered, "He has not." Was that your answer to that question?

A. So I believe.

Q. Was it true or false?

A. It was true in so far as he had told me that he had made this arrangement whereby Mr. Cobban was to furnish the money for him to complete his proof on the land, he was to transfer to Mr. Cobban.

Q. Was Mr. Tepper a notorious liar?

A. He was, yes, sir.

Q. You didn't believe him when he told you he had contracted to sell to Mr. Cobban?

A. I had every reason to believe him.

Q. So you had every reason to believe him when you gave this testimony which was not true?

A. I would not say that.

Q. Didn't you say a moment ago that you had every reason to believe he told the truth on that occasion?

A. I did.

Q. Why, then, if you had every reason to believe he had told you the truth, namely, that he had made an agreement with Cobban, did you answer this question in the land office, "He has not"?

A. Simply because Mr. Cobban had directed me to furnish him money.

(Testimony of Chauncey L. Griswold.)

Q. I wish you would answer this question now, was your answer here true according to your knowledge and information at that time, or was it false?

A. Mr. Tepper had told me he had made arrangements with Mr. Cobban to transfer the land.

Q. And you believed him?

A. I had no reason whatever to disbelieve him; Mr. Cobban confirmed his statement.

Q. Answer my question then.

A. I will say that it was false; I did know he had transferred the land or made an agreement to transfer.

Q. That is, you committed perjury on that occasion as well as these others? A. I won't deny it.

Q. But you did not at any time on this hearing?

A. Before the Examiner?

Q. Yes. A. No, sir.

Q. You got from twenty-five dollars upward, as I understand you, for committing this perjury in this homestead proof?

A. I could not say, my recollection is that I got about forty dollars.

Q. How much do you get for telling the truth here?

A. How much do I get?

Q. Yes? A. I get one fifty a day.

Q. You told us that there were about fifteen claims taken up under the same circumstances as the Albert Stewart claim, with the single exception that in the other instances the entrymen were to get one hundred

(Testimony of Chauncey L. Griswold.)

dollars instead of simply getting the land and Mr. Cobban the timber?

A. I did not say anything of the kind.

Q. What did you say about that?

A. I said that there were two taken up under the same conditions that the Stewart claim was taken up, namely, the claim of Opsata and Stewart.

Q. I wish you would state whether you did not on yesterday testify in substance that there were about fifteen claims taken up under the same circumstances as the claims of Stewart and Opsata, or the Stewart claim alone, wherein the transaction was carried on by Jackaways & Faust, with the single exception that instead of the entrymen getting the land and Mr. Cobban the timber, Mr. Cobban was to get the whole thing and the entrymen were to get a hundred dollars?

A. Yes, sir.

Q. Now, I wish you would take the bill of complaint and call off the fifteen for us?

A. It is not included in the bill of complaint, only a limited number to my recollection: Martha J. Doney, Edward D. Doney, Elijah W. Hoyt, Charlotte S. Hoyt, Albert F. Muchmore, Guy W. Muchmore, Oliver E. Muchmore, Elizabeth A. Muchmore, Alfred Stewart and Nels O. Opsata. That is all that is included in the bill of complaint.

Q. We find that is ten by calculation?

A. Yes, sir.

Q. And eight in addition to those?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir.

Q. That is all you know about?

Mr. MAYNARD.—That are named in the bill of complaint?

A. Yes, sir, that are named in the bill of complaint.

Mr. MAYNARD.—What I am asking brother Walsh about is to whether or he limited the witness' knowledge or his inquiry to those that are named in the bill of complaint, or whether he wanted to know all he did know, whether they were named in the bill of complaint or out of the complaint, that have taken up in the same way.

Mr. WALSH.—I simply wanted to know what you asked him about; you asked him particularly about those in the bill of complaint.

Q. Mr. Griswold, which one of these ten claims do you profess to know anything at all about of your own personal knowledge except this Stewart claim?

A. That is the only one I know personally about.

Q. Anything you know about the rest is simply hearsay?

A. Just simply what Mr. Jackaways of Ovando, who was working for Mr. Cobban and myself at the time, told me he had made the arrangements.

Q. What did Mr. Jackaways tell you about the entry of Mr. Elijah W. Hoyt?

A. He told me he could get the claim for a hundred

(Testimony of Chauncey L. Griswold.)

dollars, or the two claims rather for a hundred dollars over and above the expenses.

Q. When and where did he tell you that?

A. I had several conversations about that; my recollection is that he told me this in the town of Ovando.

Q. And when with reference to the time final proof was made on these claims?

A. Oh, some time prior to that.

Q. Sometime prior to the final proof?

A. Yes, sir.

Q. Told you he could get these claims for a hundred dollars and expenses? A. Yes, sir.

Q. Did he tell you anything more?

A. He did.

Q. What more?

A. Said he would turn them over to Mr. Cobban for a good deal more than that if I would keep still, and that he would divide the surplus with me equally.

Q. What did you say to that?

A. I told him I had nothing to do with it, did not want to make any arrangements of the kind, Mr. Cobban was paying me a commission, a liberal one, and I was making good, fair wages.

Q. You refused to go into a deal for the purpose of beating Mr. Cobban?

A. I told Mr. Jackaways he could do just as he chose, that I did not want to be a party to it.

Q. Did you tell Mr. Cobban about this?

(Testimony of Chauncey L. Griswold.)

A. I did not.

Q. At the same time you were turning money over to Jackaways & Faust to handle for you?

A. I was not.

Q. Do you mean to say that?

A. That I turned money over to them, I did not, I mean to say I did not turn any money over to them with the possible exception of one hundred dollars that I borrowed from Mr. Faust in Ovando to pay for a team that I had purchased from the Wales brothers; I subsequently gave Mr. Faust an order on Mr. Cobban for the hundred dollars.

Q. You didn't turn over any money to Jackaways & Faust to pay for any of these entries?

A. No, sir.

Q. And what conversation, if any, did you have with Mr. Jackaways or Mr. Faust concerning the Opsata claim?

A. I had no conversation with them about that more than we went on, looked the claim over together in company with Mr. Cobban.

Q. That is all you know about that?

A. Mr. Jackaways told me that it would be all right, that he could get it, the timber on the land, for and in consideration of furnishing the money to obtain title, that Mr. Opsata would hold the land for pasturing purposes and Mr. Cobban would have the timber.

Q. Why did you say a few moments ago that you

(Testimony of Chauncey L. Griswold.)

had no conversation with Mr. Jackaways about the Opsata claim?

A. I don't know that I did say so.

Q. Do you desire to answer that further?

A. No more than the explanation afterwards given in my answer.

Q. You did have some conversation?

A. I did.

Q. The conversation was with Mr. Jackaways to the effect that he could get the Opsata claim by furnishing the money with which to make final proof, and then Mr. Opsata would convey the timber and retain the land for pasturage purposes?

A. Yes, sir, Mr. Jackaways told me he had an understanding to that effect.

Q. Now, what have you to say with regard to your statement made a few moments ago to the effect that you had no conversation at all with Mr. Jackaways about the Opsata claim?

A. Why, I think I have explained it further in there.

Q. That was substantially the same conversation that was had with reference to the Stewart claim, wasn't it?

A. The conversation with regard to the Stewart claim was made in my presence and in the presence of Mr. Cobban and Mr. Stewart.

Q. And Mr. Jackaways told you, as I understand you now, that he had substantially made arrangements with Mr. Opsata?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir, Mr. Jackaways called my attention to this particular claim.

Q. I asked you what conversation you had with Jackaways & Faust about this Opsata claim?

A. Yes, sir, you did.

Q. You answered that you had not any, didn't you?

A. No, sir, I don't think I answered you that way.

Q. Now, with reference to the Muchmore claims, the conversation that you had with Jackaways in regard to that was that he was looking after the Muchmore claims? A. Yes, sir, to that effect.

Q. Do you remember the conversation with him about the Muchmore claims?

A. My recollection is that they were owing him, or at least he so claimed, and wanted them to take up these claims and secure the hundred dollars.

Q. Mr. Griswold, do you understand the question? Do you ever remember a conversation with him about the Muchmore claims? A. I do.

Q. Did you tell about that in answer to counsel for the government yesterday?

Mr. MAYNARD.—Don't you know, Mr. Walsh, that there are a great many things I may have overlooked and you may have overlooked?

A. I have forgotten whether I said anything about that to Mr. Maynard or not.

Q. You remember Mr. Maynard asking you what you knew about the Muchmore claims yesterday, don't you? A. I don't remember that.

(Testimony of Chauncey L. Griswold.)

Q. You don't remember, all you know about that is that Mr. Jackaways told you that he was looking after the Muchmore claims?

A. I believe that I do remember that.

Q. But now this morning you remember something else about that, do you? A. I do, very well.

Q. Now, go on and tell what more you remember this morning concerning the conversations had with Mr. Jackaways?

A. Mr. Jackaways told me that those parties, the Muchmores, at least some of them, were owing him bills in the store for merchandise he had furnished, and he would be glad if he could get them claims, that they would be willing, he thought, to go on and take up the claims and transfer to Cobban for the consideration of Cobban paying them one hundred dollars over and above expenses.

Q. You don't know anything at all about the Doney claims except what somebody told you?

A. That is all.

Q. What was it Mr. Jackaways told you about the Doney claims?

A. He told me in substance the same as he did about the Muchmore claims, they were owing him, and that they would be glad to transfer to Mr. Cobban for and in consideration of one hundred dollars and expenses. Yes, sir, words to that effect, and at the instigation of Mr. Jackaways and Cobban I went on and made an examination of these timber and stone lands

(Testimony of Chauncey L. Griswold.)

as well as the homestead and timber which Mr. Doney transferred to Mr. Cobban prior to the time of making his final proof.

Q. So that Mr. Jackaways never had any hesitation at all in saying to you that he had already negotiated with these people prior to the time that they had made final proof they should enter these lands and transfer them to Mr. Cobban?

A. He did not hesitate in saying so, no, sir.

Q. Talked with perfect freedom about that with you? A. Yes, sir.

Q. Mr. Jackaways is a business man up there?

A. He is.

Q. Been engaged in business there for a good many years?

A. Yes, sir, he was there the first trip I made on the Blackfoot.

Q. He is United States Commissioner for that section? A. He is.

Q. He was familiar with all these matters of proofs upon land, was he not?

A. I think he was, especially the homestead proof.

Q. He takes proofs on homestead claims as a part of the business of his office as United States Commissioner, does he not? A. He does.

Q. And is reasonably well informed upon public land laws? A. I presume he is.

Q. And what constitutes a violation of them?

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. Now, you are positive that you never left any money with Mr. Jackaways or Mr. Faust for the purpose of getting these claims, to make final proofs upon them?

A. I am very positive in regard to that.

Q. What direction did you give to either Mr. Jackaways or Mr. Faust with regard to any one of these ten claims that you speak of?

A. I told them to secure them if they could.

Q. What is that?

A. I told them to secure the claims if they could.

Q. Secure what claims?

A. Those ten that I have mentioned, or eight.

Q. What did you pay them?

A. I did not pay them anything.

Q. What did you agree to pay them?

Mr. MAYNARD.—Who do you mean by them?

Mr. WALSH.—Jackaways and Faust.

A. I did not agree to pay them anything.

Q. What makes you say they were working for you, then?

A. Because they said they were willing to work for me, do all they could to get these people claims, so that they could get their pay from them.

Q. Did you hire Jackaways & Faust to get these claims? A. No, sir, they done it free gratis.

Q. You didn't give them any directions about it except to get the claims? A. Nothing further.

(Testimony of Chauncey L. Griswold.)

Q. Did you have anybody else working for you under those terms? A. No, sir.

Q. As a matter of fact, Jackaways & Faust never worked for you under any circumstances, did they?

A. Why, they surely did, worked in my interest.

Q. When was the first time you saw them about this? A. My recollection is it was in June, 1899.

Q. Who was along with you at the time?

A. Mr. Cobban.

Q. Mr. Cobban was there at the time?

A. Yes, sir.

Q. Whatever money was left with Jackaways & Faust for the purpose of making final proof upon these claims, acquiring them in any way, was a transaction between Mr. Cobban and Jackaways & Faust?

A. Yes, sir, made in my presence.

Q. Now, you testified, on your examination here before, that the claims named in the bill of complaint were the only ones you had anything to do with, didn't you?

A. I believe that I did testify that they were the only ones I could swear to positively, but at that time I did omit the Stewart claim.

Q. You remember that now? A. Yes, sir, I do.

Q. You remember now you did not say anything about the Stewart claim?

A. I have no recollection of saying anything about it in my former examination.

Q. Are there any other claims now that you did have

(Testimony of Chauncey L. Griswold.)

anything at all to do with that are not included in this bill of complaint? A. There is, yes, sir.

Q. What are they?

A. Well, I could not name them; there is a few claims that I was personally interested in and had full knowledge of the transactions, and there are other claims the same.

Q. What are those?

A. The same as the ten claims that have been mentioned that came to my knowledge by hearsay.

Q. Go on and tell us what those were that you had personal knowledge of and that are not included in this bill of complaint.

A. Well, there was the May Hawthorne claim for one, the Charles E. Johnson claim for another, the J. H. Staley claim for another, the Herman Spiker claim for another. There was the claims of A. E. Pound and Lucy Pound, John D. Beaton and Bessie M. Price; and several others who I cannot call to mind just now.

Q. What did you have to do with any of those that you have now mentioned? Are these the ones that you had something personal to do with?

A. Some of them are.

Q. I asked you for those that you were personally connected with.

A. I did not so understand your question.

Q. You may answer now as to that.

A. I was personally connected with the J. H. Staley claim.

(Testimony of Chauncey L. Griswold.)

Q. Did you locate him?

A. I examined the land, sent Mr. Bryan with him I was sick at the time and I could not go on the land.

Q. Go on.

A. And he afterward made final proof and transferred to Mr. Cobban.

Q. What other ones were you personally connected with, either by yourself or one of these agents you have spoken of?

A. I don't know that there is any that I was personally connected with.

Q. Did you understand the last question, Mr. Griswold?

Mr. MAYNARD.—Either by yourself or by one of your agents.

A. Well, there was several I was connected with through Jackaways & Faust.

Q. That is what I want you to tell about.

A. That is the Johnson claim, the May Hawthorne claim, the Cora Z. Faust claim, and there may have been others; I would not be positive about that.

Q. Which are those you were personally interested in?

A. I was personally interested in all of them, each and every one of them; that is the Johnson, the Hawthorne, the Faust, the Staley and some others, for the simple reason—

Q. Can you name the others?

A. I cannot name them; I would not attempt to; my

(Testimony of Chauncey L. Griswold.)

interest went to the extent of five cents a thousand; Mr. Cobban agreed to pay me under contract.

Q. Mr. Bryan located Staley at your direction?

A. Yes, sir.

Q. Who located Johnson? A. Mr. Jackaways.

Q. At your direction?

A. No, sir, not at my direction; he located Mr. Johnson before I had seen Mr. Jackaways at all.

Q. Mr. Jackaways did?

A. Yes; that is, he informed me he did.

Q. Mrs. Faust? A. Is the same.

Q. You gave no directions?

A. No, sir, nothing of that sort.

Q. May Hawthorne?

A. May Hawthorne he located after I had made my arrangements with him.

Q. Did you give him any directions about May Hawthorne's claim?

A. He asked me about it, and I told him he had better take her over and put her on the claim.

Q. Did you say anything about any of these claims in your testimony before Mr. Zeverly?

A. I did mention the fact, great many of them; gave him the names.

Q. The names of these?

A. Yes, I believe so.

Q. Why were not those included in the bill of complaint?

A. Because I could not swear knowingly, understandingly, in regard to them.

(Testimony of Chauncey L. Griswold.)

Q. What else did you know about the Staley claim than you did about Mrs. Dildine's?

A. Didn't know anything else.

Q. You know just as much about the Staley claim as you did about Mrs. Dildine's? A. Yes.

Q. What more did you know, or less, did you know about the Johnson claim, than you did about the Hoyt claim?

A. Why, Mr. Jackaways informed me that Mr. Johnson had left the claim in his hands for disposal, for to sell it, and did sell it for Mr. Johnson.

Q. Was that before or after he had made proof?

A. I think there was talk of selling the claim before he made final proof.

Q. Did you know any more about Mr. Hoyt's claim than you did about Johnson's?

A. Nothing more than I made a personal examination of Mr. Hoyt's.

Q. Didn't you of Mr. Johnson's?

A. I didn't make a personal examination—that is, to estimate the timber on the land.

Q. You did estimate the timber, didn't you?

A. I believe not on the Johnson claim.

Q. You charged Mr. Cobban with it, didn't you?

A. I did.

Q. You charged him with the Staley claim, too?

A. Yes, sir.

Q. You knew just as much about the Staley claim as you did about any other claim?

(Testimony of Chauncey L. Griswold.)

A. Let me—wait. I would not say for sure I did charge him with the Staley claim; I would not say he ever paid me for it.

Q. What have you to say about the Hawthorne claim?

A. I would say about the Hawthorne claim he did allow me for that.

Q. You knew about as much about that as you did about the Elvira M. Hardy claim?

A. I don't understand your question.

Q. What did you know more about the Elvira M. Hardy claim than you did about the Hawthorne claim?

A. I don't think I knew as much about the Hardy claim as I did about the Hawthorne claim, only so far as I was told by my employee, Mr. Jemison.

Q. Now, you had no agreement at all that you were to advance any money to Mrs. Wells, I understand?

A. I have no recollection of ever promising to pay or of paying one dollar to either Mr. or Mrs. Wells over and above my usual and necessary hotel expenses, and prior to that time where I would pay them for beef they had furnished at my stopping place at Clearwater.

Q. Well, leaving the beef and hotel expense out, I will ask you if you made any agreement at any time with Mrs. Wells that you would advance money to her for the purpose of making final proof?

A. I have no recollection of doing anything of the kind.

Q. Nor any expense in connection with the entry?

(Testimony of Chauncey L. Griswold.)

A. No, sir, I have no recollection about it.

Q. You selected the claim for her?

A. I gave her the description of the claim?

Q. Told her where she could find it?

A. Yes, sir.

Q. How much timber was there on that claim?

A. My recollection is there was about eight hundred thousand.

Q. You think Mrs. Wells was in error when she said there was twelve hundred thousand?

A. I would not say as to that.

Q. Didn't you hear her say there was twelve hundred thousand? How much was there on the Wells claim? A. I never estimated that claim.

Q. You charged Cobban for both of these, didn't you?

A. I did, yes, sir.

Q. Did you locate Wells?

A. I did not, no, sir

Q. Well, I would ask on what basis did you charge Cobban?

A. Under the terms and conditions of the agreement in writing that I had entered into on the 22d day of May, 1899, and it is not stipulated in that contract that I should do any estimating.

Q. It is not? A. No, sir.

Q. Well, you were unsuccessful, as I understand you, in endeavoring to get a conveyance from Wells?

A. I was, yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. What did you do in connection with the Wells claim?

A. I don't remember that I did anything in connection with the Wells claim more than to go to his home about nine miles from Ovando and tender them a check.

Q. That he refused? A. Yes, sir.

Mr. MAYNARD.—As you testified refused yesterday?

The EXAMINER.—Put in an objection if you wish to, but do not interrupt.

Mr. MAYNARD.—The objection that I make is this, that counsel is knowingly misleading the witness as to the testimony that he gave yesterday in regard to the Wells claim and his services in regard to it and his going home, going to Missoula, and so on.

A. I did make an arrangement with Mr. Wells to go to Missoula, Mr. and Mrs. Wells both.

Q. For that special purpose?

A. I will not say in regard to that.

Q. Didn't you say yesterday that Mr. Wells was going to Missoula on other business?

A. I believe I did.

Q. Did you make a special trip out there to see the Wells on that account? A. From Missoula?

Q. Yes, sir.

A. Yes, sir, at the special instance and request of Mr. Cobban.

Q. You put a charge in in your account against Cob-

(Testimony of Chauncey L. Griswold.)

ban for this Wells claim as well as for the Mrs. Wells claim?

A. I did not put in any charge at all; Mr. Cobban gave me credit for it, that is my recollection of it.

Q. Well, did you claim credit for it?

A. Most surely I did.

Q. You claimed credit on account of Mrs. Wells, also? A. Surely I did.

Q. What did you claim a credit for on account of Mrs. Wells' claim?

A. Because under the terms and conditions of my contract what was to be paid—

Q. What did you claim a credit for, for what sums?

A. Five cents a thousand.

Q. How many thousand?

A. I could not say, I could not remember all that; my recollection is that there was about in the neighborhood of two million feet on the two claims, but I would not be positive in regard to that.

Q. That would be ten hundred thousand on each claim?

A. Yes, sir.

Q. Those are pretty good claims?

A. Yes, sir, pretty good claims.

Q. Now, that would make so far as that is concerned you would claim, say ten hundred thousand at five cents a thousand, would make fifty dollars on account of the timber on Mrs. Wells' claim?

A. I could not say the amount.

Q. Whatever it was? A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. What else did you claim on account of Mrs. Wells?

A. I have no recollection of claiming anything on her account.

Q. You charged Mr. Cobban five dollars a day witness fees for her, didn't you?

A. Witness fees, yes, I don't remember whether I ever did or not.

Q. Will you swear you did not?

A. I will not.

Q. If you did, upon what basis did you claim witness fees for attending at the final proof of Mrs. Wells?

A. If I did charge it, it was because I went as a witness for Mrs. Wells at the instance and request of Mr. Cobban.

Q. How did Mr. Cobban come to request you to go and attend the final proof of Mrs. Wells?

A. I could not say in this one particular case, but in a great many cases he did request me to go as a witness, and I presume the same circumstances—

Q. Did he request you to go as a witness, except in cases where you had located and agreed to advance the money? A. He surely did.

Q. What cases?

A. In the case of Gilles was one particular one.

Q. Didn't he agree to advance the money in the case of Gilles? A. I so understood.

Q. Now, I have asked you whether he requested you to act as a witness in any case except where he had agreed

(Testimony of Chauncey L. Griswold.)

directly or you had agreed for him to advance the money necessary to make final proof?

A. I could not say. I was a witness for a great many.

Q. Well, what one were you a witness for and acted as a witness for at the request of Mr. Cobban, in which Mr. Cobban did not directly or through you agree to advance the money for the final proof?

A. Why, the Charles E. Johnson claim was one.

Q. You said that Jackaways & Faust advanced the money for him, didn't you?

A. No, sir, I did not.

Q. Did you act as a witness for Johnson?

A. I did.

Q. Who furnished his money?

A. I could not say; think he furnished his own.

Q. Sure about that? A. I am not sure about it.

Q. Did you charge witness fees in the case of the Johnson claim against Mr. Cobban? A. I did not.

Q. Who paid your witness fees?

A. I did not receive any.

Q. Did you receive witness fees in the case of Mrs. Wells? A. I could not say.

Q. You could not say that? A. No, sir.

Q. You could not say whether you claimed them or not?

A. No, sir.

Q. You did not say anything about Mrs. Miller's claim in this list that you spoke of as having been entered?

A. I don't remember that I did mention Mrs. Miller's name.

(Testimony of Chauncey L. Griswold.)

Q. What have you to say about it?

A. I have not anything further.

Q. Do you know anything about that claim?

A. Nothing only by hearsay.

Q. Do you know about that by hearsay?

A. Yes, sir.

Q. The same as these other claims you have spoken about? A. Yes, sir.

Q. From whom did you hear anything about the Mrs. Miller claim?

A. Why, I had some talk that Mr. Morris about the Miller claim.

Q. Mr. David Morris? A. Yes, sir.

Q. When and where?

A. I could not tell you when nor where.

Q. What did he say about it?

A. He said he had located her.

Q. Anything further?

A. I could not say there was anything further.

Q. That is all you know about that?

A. Yes, sir, know he was working there in that vicinity locating people.

Q. Do you know of any other claims located by Mr. Morris?

A. I do, that he was locating in there for Mr. Cobban.

Q. Where? A. In and around Camas prairie.

Q. Do you know how many he located; half a dozen?

A. Oh, yes, more than that.

Q. A dozen or two?

(Testimony of Chauncey L. Griswold.)

A. I should say somewheres, twelve, fifteen or perhaps twenty.

Q. Do you know anything more about any of these other twenty than you do about Mrs. Miller's?

A. No, sir; all I know about that is by hearsay.

Q. That was to the effect that he had located claims for them? A. For Mr. Cobban.

Q. Do you know of any other parties who were locating for Mr. Cobban?

A. No, sir, Mr. Morris and I were the only ones directly for Mr. Cobban.

Q. Cammas Prairie is on the Blackfoot, isn't it?

A. Well, no, I don't think it could be considered on the Blackfoot.

Q. Is it tributary?

A. Tributary, yes, sir; there is a large mountain of grounds intervening between the Blackfoot river and Cammas prairie.

Q. But the stream runs into the Blackfoot just the same as Montour Creek and the others? A. Yes, sir.

Q. You testified on yesterday that there was not an entry made in the Blackfoot under the same circumstances as Mrs. Wells' entry; I wish you would tell what was the difference between the Mrs. Wells entry and Mrs. Miller's?

A. I do not remember testifying that way.

Q. You don't remember testifying that way?

A. No, sir.

Q. You desire to say now that you did not?

A. I do not. I say I have no recollection of testifying anything of the kind.

(Testimony of Chauncey L. Griswold.)

Q. What difference do you know in fact existed between the entry made by Mrs. Miller and the entry made by Mrs. Wells?

A. Well, I am informed that the entry made by Mrs. Miller was selected and approved by David Morris and the entry made by Mrs. Wells was selected and approved by myself.

Q. Do you know any other difference between them?

A. No, sir. I would like to amend that answer and add to it further than that Mr. Cobban to my recollection has paid me for the Wells claim at the rate of five cents a thousand and did not pay me anything for the Miller claim.

Thereupon further hearing was continued until 2 P. M.

Friday, March 28th, 1902, 2 P. M.

Hearing resumed pursuant to adjournment.

C. L. GRISWOLD, a witness heretofore upon the stand, resumed the stand for further cross-examination.

Cross-examination.

(By Mr. WALSH.)

Q. Mr. Griswold, you think that it was not by reason of any instructions given you by Mr. Cobban, prior to the second day of August, 1899, that you made the memorandum in the Gilles receipt, that the moneys were advanced to him by way of a loan?

A. I have no recollection of anything of the kind being communicated to me by Mr. Cobban.

(Testimony of Chauncey L. Griswold.)

Q. Your recollection of his saying anything about it being a loan postpones it subsequent to that date, does it?

A. Yes, sir.

Q. That is your recollection about it, is it?

A. Yes, sir, on or about the first of September.

Q. Did you ever loan any money to Mrs. E. M. Gagnon?

A. I don't know that I did. No, I simply paid Mrs. Gagnon's expenses for coming over here and making this filing. She made one or two trips over here.

Q. Who is this Mrs. Gagnon?

A. She is the wife of Ephrain Gagnon, a workingman.

Q. What is the occupation of Mrs. Gagnon?

A. Why, she is a housewife. My first acquaintance with her was when she came to my place at Clearwater to board; her husband was running a drive, working a log drive.

Q. You said something about the character of Mrs. Lawrence being such that you could hardly do any business with her upon the recommendation of Mr. Reeve. Is that the way you desire to be understood?

A. Yes, sir, I do.

Q. You have heard something against her character, have you? A. I have.

Q. Did you ever hear anything about Mrs. Gagnon?

A. No, sir, I did not.

Q. Well, you say you paid Mrs. Gagnon's expenses over here to Helena, do you?

A. That is my recollection, yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. How much? A. I wouldn't say the amount.

Q. Didn't you advance the money to Mrs. Gagnon by way of a loan?

A. Not to my recollection, no, sir. I don't think there was anything said between Mrs. Gagnon and myself concerning a loan.

Q. You think not?

A. No, not to my recollection there wasn't.

Q. I show you this paper and ask you in whose handwriting the body of it is?

A. Well, I should say it was mine.

Q. You are quite sure of it, are you, Mr. Griswold?

A. I wouldn't say that I am sure, but it resembles my handwriting.

By Mr. WALSH.—We offer this paper in evidence, if the Court please.

By the EXAMINER.—This paper will be marked, "Defendant's Exhibit No. 205."

Q. Never having said anything to Mrs. Gagnon about a loan and Mr. Cobban not having said anything to you about advancing this money to these people in the way of a loan, on or about April—on or prior to about the first day of September, 1899, can you explain how the memorandum to which your attention is called, Exhibit No. 205, recites that this $35.00 advanced to Mrs. Gagnon, was advanced on a loan to her?

A. I will say this, that I did pay the expenses of Mrs. Gagnon over here to Helena, to make her application to

(Testimony of Chauncey L. Griswold.)

purchase this land, and subsequently her expenses over here to complete the proof, but I have no recollection of saying anything to Mrs. Gagnon that this was to be considered as a loan. It was simply money advanced to her by me, for her to pay these expenses.

Q. Well, that is what I say, Mr. Griswold, seeing that there was no such talk with Mrs. Gagnon, and saying there was no such talk with Mrs. Gagnon, can you explain how the word "loan" comes into this receipt?

A. I cannot.

Q. And you are equally unable with regards to the memorandum signed by Mrs. Wells?

A. I have no recollection of that.

Q. And equally unable to explain how it comes in the Gilles memorandum?

A. You are asking questions so that I cannot give any answer. I have no recollection of the Wells claim.

Q. You are equally at a loss, then, to understand, or explain how the word "loan" occurs in the Mrs. Wells memorandum, as you are in the Mrs. Gagnon memorandum, as you are unable to give us any explanation in the occurrence of the word "loan" in the Mrs. Wells memorandum?

A. I cannot other than the fact that Mrs. Wells or Mrs. Gagnon or Mr. Gilles could have borrowed any money of me at that time that I had.

Q. Well, now, do you remember what was the occasion of your letting Mr. Gilles have $339.10 on or about the second day of August, 1899?

(Testimony of Chauncey L. Griswold.)

A. I do not. I don't remember the occasion.

Q. Did you loan him any money at that time other than such money as was used in making his final proof upon his land? A. I didn't loan him any money.

Q. Did you loan him any money other than that?

A. I have no recollection that I had loaned him a cent.

Q. I wish you would state whether you have ever seen this memorandum before, Exhibit No. 204.

A. I did see it, yes, sir.

Q. I wish you would tell us when and where you saw it?

A. My recollection is that I saw it just before dinner.

Q. And not before that?

A. I have no recollection of ever having seen it before.

Q. You have no recollection of ever having seen it before? A. No, sir.

Q. I wish you would tell us where you first saw this memorandum signed Mrs. E. M. Gagnon, and dated the first day of September, 1899, Defendant's Exhibit No. 205?

A. The only recollection I have of seeing it is about ten minutes ago when it was produced here.

Q. You have no recollection of having seen it here prior to that time? A. No, sir.

Q. But it is written in your own handwriting?

A. I didn't say that—I say it resembles my handwriting.

Q. Well, give me your best judgment, as to whether it is or is not made in your handwriting.

(Testimony of Chauncey L. Griswold.)

A. All I can say is that it resembles my handwriting. I wouldn't say whether it was all my own or not.

Q. What is there, if anything, about the word C. L. Griswold that suggests to you that there is anything that is not in your handwriting?

A. There isn't anything.

Q. So far as you can say then, it is your genuine handwriting.

A. I will simply say that it resembles my handwriting whether it is or not, I won't say.

Q. And you have absolutely no recollection of ever having seen these three papers that are now shown you, namely, the receipt for money from Mrs. Wells, the receipt of money from Mrs. Gagnon, and the receipt of money from Mr. Gilles?

A. I have no recollection of anything of the kind.

Q. Now, Mr. Griswold—when Mr. Reeve, came to see you about this matter, you didn't want to do any business with him you say?

A. I did not.

Q. When had you seen Mr. Reeve next prior to the time that you speak of that you met him, about the Florence Hotel in Missoula when he asked you to locate claims for himself and family?

A. I don't recollect that I have testified that I saw Mr. Reeve in the vicinity of the Florence Hotel in regard to these claims.

Q. Don't you?

(Testimony of Chauncey L. Griswold.)

A. No, sir, I don't have any recollection of testifying to anything of the kind.

Q. Will you swear that you didn't so testify?

A. I will not.

Q. What is that?

A. I will not swear that I didn't so testify. I may have done so.

Q. Well, what is the fact about it?

A. My recollection is that I saw him in Missoula on Higgins avenue.

Q. Near the corner of Higgins avenue and Front street? A. I wouldn't say that.

Q. The Florence Hotel is on the corner of Higgins avenue and Front street, isn't it?

A. I may have testified that I met him on the corner of Higgins avenue and Main street.

Q. Well, without any regard to the particular place, I ask you when you next before that time saw him?

A. I couldn't say.

Q. Did you have any talk with him prior to that time about timber claims?

A. I have no recollection of it.

Q. Or any other kind of land?

A. I have no recollection of talking to Mr. Reeve on any land matter in any form or manner.

Q. Well, you didn't enter into any agreement either one way or the other with Mr. Reeve, as I understand you? A. No, sir, I did not.

Q. What do you know about his entry?

(Testimony of Chauncey L. Griswold.)

A. Well, he met me, or I overtook him—

Q. Oh, I remember, he told you all about it up where you traded horses. A. Yes, sir.

Q. Told you that he had entered into an agreement with Mr. Cobban, by which Mr. Cobban had agreed through you to put him on land for himself, and all the members of his family, designating them and six in particular, that he would furnish them the money, and after they had proved up, they would convey to Mr. Cobban?

A. I don't believe I said that.

Q. In what regard is the testimony incorrect?

A. It is incorrect in this particular that Mr. Reeve didn't say that he had entered into an arrangement with Mr. Cobban, whereby through me he was to be located.

Q. Otherwise the statement is correct?

A. Yes, sir, I believe so.

Q. Mr. Reeve told you that, did he?

A. Yes, sir.

Q. And he named at that time who the members of his family were? A. Yes, sir, he did.

Q. That is, his wife, Mrs. Ehle, and Mr. Ehle and Mrs. Starkie and Mr. Starkie?

A. Yes, sir, and himself.

Q. And himself. Then when he was on his way up to look at the land?

A. Yes, sir. Himself accompanied by Mr. Starkie.

Q. Who else was along with you at that time?

(Testimony of Chauncey L. Griswold.)

A. My recollection of it is that there was no one, but just himself and Mr. Starkie.

Q. Just himself and Mr. Starkie, you think?

A. Yes, sir.

Q. Who overheard this conversation, Mr. Griswold?

A. Mrs. Stairs.

Q. Anybody else?

A. I have no recollection of anybody else being there.

Q. Where did the conversation take place?

A. In front of the hotel occupied by Mrs. Stairs and her husband.

Q. What was Mrs. Stairs doing there?

A. Keeping a stopping place.

Q. And a saloon, wasn't it?

A. Well, saloon, stopping place, stable, etc.

Q. And this statement was made by yourself in the presence of Mrs. Stairs?

A. Yes, sir, and Mr. Reeve.

Q. Where was Mr. Starkie?

A. Well, I wouldn't say whether Mr. Starkie was present or not during the time of this conversation. I wouldn't say whether he was or not.

Q. Well, anyhow you knew all about this corrupt bargain before Mr. Reeve and his family located on the land at all?

A. Only so far as Mr. Reeve had informed me at that time and place.

Q. Well, did you believe him?

A. I did believe that he had made an arrangement

(Testimony of Chauncey L. Griswold.)

with Mr. Cobban, whereby Mr. Cobban was to furnish him money to make final proof.

Q. Were you a witness when any of these final proofs were made?

A. I have no recollection whether I was or not.

Q. As a matter of fact, you were a witness for Mr. Starkie, weren't you?

A. I don't remember whether I was or was not.

Q. Just look over the papers and see. (Papers in the matter of the entry of Mary Starkie presented to the witness.)

A. Yes, I think I was a witness for Mrs. Starkie.

Q. I show you what purports to be your testimony given upon the final proof of Mrs. Starkie's claim, and call your attention to your signature to the same, and ask you if it is not in your handwriting?

A. The signature is in my handwriting, yes, sir.

Q. In the course of that testimony you were asked: "Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which she may acquire from the Government of the United States, may inure in whole or in part to the benefit of any person except herself?" To which you answered: "She has not to my knowledge." Was the answer true or false?

A. Well, it was true only so far as hearsay from Mr. Reeve.

(Testimony of Chauncey L. Griswold.)

Q. Well, so far as hearsay was concerned, was it true?

A. It was false as far as hearsay was concerned.

Q. Such information as you had about the matter was to the contrary of what you stated, was it?

A. Yes, sir.

Q. And you knew it at that time?

A. Yes, sir.

Q. You intended to answer it falsely?

A. I didn't intend to answer it falsely, no, sir.

Q. What did you intend to say?

A. I intended to say just what I did say.

Q. And that is, not to my knowledge.

A. Yes, sir, further than the information that had been given me by Mr. Reeve, her father.

Redirect Examination.

(By Mr. MAYNARD.)

Q. Now, Mr. Griswold, in regard to these receipts that counsel has shown you, I will ask you whether it was not your custom, at the time you paid money of Mr. Cobban's into the land office, or paid his money for the expenses of these entrymen and entrywomen to receive any papers from them to evidence the fact of such payment.

By Mr. WALSH.—We object to that as leading.

A. It was customary for me to take a receipt, yes, sir.

Q. And why did you do that, Mr. Griswold?

(Testimony of Chauncey L. Griswold.)

A. So that I could turn these receipts into Mr. Cobban and receive credit for the same.

Q. If, as a matter of fact, you paid, say $400.00 of Mr. Cobban's money into the land office, to pay for an entryman's land, with an understanding on your part, and upon the entryman's part, that he was to convey the same land to Mr. Cobban, immediately upon receiving the receiver's final receipt—final duplicate receipt, and he didn't convey the land, and the receipt should be lost, what evidence would you have of the fact that you had paid the money over without the receipt?

By Mr. WALSH.—We object to that as being leading, and further that it is irrelevant, immaterial and incompetent.

A. I would have no record of any money that I had paid to these parties, and further that the conveyance was made to R. M. Cobban in a great many cases and instances, regardless of the issuance of the receiver's duplicate final receipt.

By Mr. BICKFORD.—We move to strike out the answer of the witness, as not being responsive to any question propounded by counsel for the reason that it is irrelevant and immaterial, and not the best evidence of the fact stated.

Q. Now, I will ask you, Mr. Griswold, whether when you paid this money, when you took this paper from these entrymen, such as you did, whether it be a sum of money or not, whether it was for any purpose other

(Testimony of Chauncey L. Griswold.)

than to protect yourself by reason of having paid the money for their benefit.

By Mr. WALSH.—We also object to that upon the ground that it is irrelevant and immaterial.

A. That was the only reason that I took them. The only possible reason that I could have taken them from the parties to whom I paid this money.

Q. Was it customary for you to give such—receive such receipts from the different persons for whom you paid money; either for the payment of their land, or their expenses?

By Mr. BICKFORD.—We also object to this for the reason that it is leading, and it is also irrelevant and immaterial, and does not prove or tend to prove any issue raised by the pleadings in this case.

A. My recollection is that I received papers similar to that from the Bryans, Lehman, and the Dodds, or some of the Dodds, and some of the Watsons, as well as McConnell and Sperry.

Q. Now, Mr. Griswold, I will ask you whether or not, when you drew up these receipts, you had any set form to use in particular, or whether you used any particular word with reference to any particular idea in your mind, at the time, other than the fact that you wanted something to evidence the fact that you had paid out the money?

By Mr. WALSH.—We object to that upon the ground

(Testimony of Chauncey L. Griswold.)

that it is irrelevant and immaterial, and has nothing to do with the issues in this case.

A. Why, that is the only reason that I took these receipts, and the only possible reason that I did take them, was to show what I had paid out of the money left me by Mr. Cobban for these other purposes.

Q. The question is, you didn't give this money to these persons, did you?

By Mr. WALSH.—We object to that for the reason that it is leading.

A. No, sir, I did not.

Q. You didn't intend it as a straightaway gift of it, or as a present, did you?

By Mr. WALSH.—We object to that as leading.

A. No, sir, I did not.

Q. And was the money advanced then, for any other purpose than that they might make the entry; and the payment upon the land to carry out the agreement with Mr. Cobban?

By Mr. WALSH.—We object to that as leading.

A. That was the understanding between the entrymen and entrywomen to whom I advanced the money.

Q. And whether the word loan appears in these receipts or not, the facts were the same, were they?

By Mr. WALSH.—We object to that as leading.

A. Yes, sir, the facts were the same.

Q. And these were afterwards turned in to Mr. Cobban and used by him in his settlements with the entry-

(Testimony of Chauncey L. Griswold.)

men and entrywomen, and also in your settlement with him.

By Mr. WALSH.—We object to that as leading.

A. I wouldn't say they were used by Mr. Cobban, with the entrymen and entrywomen, because Mr. Cobban was to pay all the expenses, and a hundred dollars over and above the expenses. He simply paid it, and instructed me to pay these people a hundred dollars over and above expenses.

Q. Well, now, Mr. Griswold, if as a matter of fact, whether you can now recall the fact or not, whether your memory is at fault, or you cannot now recall the circumstances and facts connected with these receipts from John Gilles, which recites that it was received from Mr. C. L. Griswold, $339.10, Helena, August 2d, 1899, if that was as matter of fact, a payment for the use of John Gilles, into the land office, of Cobban's money, would this not have been used by him, in his settlement with you, and be taken out of the hundred dollars, or whatever it might be that was coming to Gilles?

By Mr. WALSH.—We object to that as being leading.

Q. Would it not be considered by him in making his settlement with you?

By Mr. WALSH.—We object to that as being leading.

A. The receipt would surely have been used between Mr. Cobban and myself, in my account with Mr. Cobban for $2,740.00 that he gave me in Ovando, for the purpose

(Testimony of Chauncey L. Griswold.)

of defraying the expenses of the Gilles and Cloutier entry, and in conveying this piece of land to him.

Q. Well, as a matter of fact, if it is used, it would be in the account between you.

A. Between myself and Mr. Cobban.

Q. Yes, sir.

A. Certainly it would.

Q. I wish, Mr. Griswold, if it is possible by any process of hard thinking that you would try and recollect the facts and circumstances, a loan of this considerable amount of money, if you did make the loan, what the facts and circumstances were.

A. I have no recollection of making anything of the kind.

Q. Have you any data or any books of account by which you could refresh your recollection?

A. Why, I have a very distinct recollection of paying Mr. Gilles a certain amount of money, I believe two hundred dollars or two hundred and fifty dollars in addition to his expenses in acquiring the title to this land, in a room of Mr. Harry Zayas, over here, and further then, that I did pay for Mr. Gilles, into the land office, four hundred dollars.

Q. Well, now, as—do I understand that you have now—that it has just now come to your memory, some of the facts and circumstances connected with the payment of money to Gilles, whereby it is possible the receipt may have been given? A. Yes, sir.

Q. What are those facts and circumstances?

(Testimony of Chauncey L. Griswold.)

A. The facts and circumstances of the case are that on or about the 30th day of July, 1899, R. M. Cobban was down at Ovando and gave me checks for $2740.00, that is, all told, together with deeds all drawn up conveying the land of Gilles and Cloutier to him, and instructed me to go down there and pay them so much money, the exact amount of money I cannot remember, only in the case of Cloutier, wherein I had made a bargain and had an understanding with him, that he was to convey the land immediately upon making final proof, to Mr. Cobban, or to whom he might elect for and in consideration of one hundred dollars, and their expenses in proving up, and in the matter of Gilles, the agreement was made between Mr. Gilles and Mr. Cobban, and at the present time, I have no recollection of the amount of money that I had paid him, further than this shown in the receipt which has been exhibited to me.

Q. Well, have you any recollection of having paid some money here in Helena?

A. I have a very distinct recollection of doing so.

Q. Well, where was it?

A. In one of the private rooms of what would be termed a wine room in the back part of Harry Zayas' saloon in the city of Helena.

Q. And how long after the 30th of July was that?

A. Why, it was about four days, that is my recollection about it.

Q. This receipt is dated at Helena, August 2d, 1899?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir, but this money was received—these checks were received by me from Mr. Cobban at Ovando, necessitating my traveling to Missoula in a private conveyance and from Missoula here over the Northern Pacific Railroad.

Q. I see this receipt here was signed August the second?

A. Yes, sir, on the day, or the day after Mr. Gilles made his final proof. My recollection is that it was on the very day that he did make his final proof.

Q. What is your recollection as to the amount of money that was paid there?

A. My recollection is that I paid Mr. Gilles in this room in Zayas' liquor store, two hundred and fifty dollars, over and above his expenses, the whole thing amounting to the cost of the land from the Government, $2.50 an acre, together with the advertising expenses, and the expense of filing and all the necessary expenses of acquiring title was about eight hundred dollars, as I have already testified to. Mr. Walsh has cross-examined me on that and figured it up, and figured out that I only charged Mr. Cobban, but if he will count the expenses that was paid in, why Mr. Cobban has charged me up with that, and it makes the cost of the land about eight hundred dollars, and that he has charged to me.

Q. And the charge back from Mr. Cobban equalized it, did it? A. Yes, sir.

Q. Now, then, Mr. Griswold, having recalled the

(Testimony of Chauncey L. Griswold.)

fact of meeting Gilles here in Helena, and the payment of money, as you have stated, in Zayas' saloon, what have you to say as to whether it is or is not probable that the receipt was given at that time and place?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial, and further it is leading.

A. I have no doubt but that that receipt was given by Mr. Gilles to me at that time and place.

Q. Did you see Mr. Zayas there?

A. I did, yes, sir.

Q. In the saloon at the time?

A. Yes, sir, I did.

Q. Now, then, counsel asks you in regard to your charging Mr. Cobban for services, or for some work in connection with the—with the Mrs. Wells claim, I think it was five dollars, I will ask you this question: Did you when you were in Helena at that time and place, when Mrs. Wells was here, were you prepared to give the money to pay for her land, and to be a witness for her?

By Mr. WALSH.—He has already testified to this matter, and we object upon the ground that it is leading, and the witness has already testified to the same state of facts on his original examination.

A. I surely was, both prepared to be a witness, and to furnish money for the final proof.

Q. You didn't furnish her the money, and you didn't become her witness for what reason?

(Testimony of Chauncey L. Griswold.)

A. I didn't furnish the money for the final proof, because she told me—or rather her husband told me that they had money of their own to do this, but I was a witness in Mrs. Wells' final proof.

Q. And under these circumstances you have testified to making the charge against Mr. Cobban?

By Mr. BICKFORD.—We object to that upon the ground that it is irrelevant and immaterial, and does not prove or tend to prove any of the issues in this case.

Q. I will ask you, Mr. Griswold, if it possible that —even now, in connection with all the facts and circumstances and all the minor details connected with these many entries of the men and women that have been considered in this case, it is possible that even now some minor fact may have been overlooked, and that you haven't told me or that I have myself overlooked?

By Mr. WALSH.—We object to that for the reason that it is argumentative and leading.

A. I presume very likely that there is.

Q. Well, if I omitted to ask you in regard to the affairs of Mr. Stewart, you wouldn't have thought that very singular, would you?

By Mr. BICKFORD.—We object to that upon the ground that it is leading, and further, it is argumentative, and it is also irrelevant and immaterial, and

(Testimony of Chauncey L. Griswold.)

does not prove, or tend to prove any of the issues in this case.

A. No, not in the least.

Q. Now, Mr. Griswold, counsel on the other side asks you to name the persons outside of the bill of complaint in this case, that made entries to your knowledge, or as you gained from your assistance by hearsay, from them, similar to that which was made by Mr. Stewart, taking out of account the mere exceptional fact that he was to retain the land. Now, then, you said that you couldn't remember the names, but you gave some. A. I gave some, yes, sir.

Q. Can you give any more now?

A. I can, yes, sir.

Q. I wish you would name them.

A. Aided by the papers that I have found, and conversations with different people that I have met, I am prepared to give them by reference to a paper that I have in my pocket at this time.

Q. Well, I wish you would refer to that paper.

By Mr. WALSH.—We object to that upon the ground that it is immaterial and irrelevant and incompetent and calling for an inquiry about matters that are altogether collateral to the matters referred to in the bill of complaint.

By Mr. MAYNARD.—He is just stating the answer to your very question, my brother Walsh, that you put to him.

(Testimony of Chauncey L. Griswold.)

A. Shall I go on and read the names?

By Mr. WALSH.—I wish you would understand the question, Mr. Griswold.

(Witness continuing.) That were the same as Stewart's and were obtained through Jackways & Faust.

By Mr. WALSH.—Counsel for the defendant didn't ask the witness any such question to start out with.

A. Shall I read the names?

Q. Yes, sir.

A. Susa Alford, John A. Alford and wife, Henry A. Amiraux and wife, John D. Beaton, John Beaton, George T. Bell, Joseph F. Comee and wife, Orville C. Clark and wife, Simon C. F. Cobban, John W. Chattin and wife, Harriet L. Chattin, Henry C. Chattin, William Dorsett and wife, George L. Elliott and wife, Alice M. Cobban, Allen Dodd, Abraham L. Farmer and wife, Benjamin S. Helms, Wilmer E. Hubert, Anthony Johnson, Andrew Jacobson and wife, Martha Larson, Wallace J. Miller, George Miller and wife, John H. Morris and wife, Mathew McDonald, Norman Newell and wife, John H. Olson, Albert E. Pound and wife, T. A. Price and wife, Winfield Dodd, Harry C. Dorman, Cora Faust, Louis S. Jakways, Charles E. Johnson, Ambrode Martin, Richard Pelkey, Jaspar B. Seeley, Herman H. Spiker, Louis A. Wells, Lizzie Wells, William Zander, Anna A. Rowe, George L. Ramsay and wife, John Rinquette and wife, Samuel John Rowe, Merritt A. Robinson and wife, Melvin R. Stairs and

(Testimony of Chauncey L. Griswold.)

wife, John G. Smith and wife, Edward F. Tippett and wife, Walter W. Wilder and wife, John White and wife, William O. Warner, Charles M. Young and John H. Staley.

Q. The list that was written out, I notice the names of Wells and Stairs, which embraces the conveyances to Cobban and afterwards to Clark, I will ask you as to whether or not, so far as the Wells and Stairs entry, that was a mistake. You mean to express in that list the other fact outside of the conveyance to Cobban and Clark, the facts of the prior agreement.

By Mr. WALSH.—We object to that as leading.

A. My recollection is, and I am absolutely sure, that there was no prior agreement; that in connection with the Wells claim, the Stairs claim, and one or two others which I can name, by having the paper.

Q. I would like to have you name all of them. If there are any more, just name them, please.

A. Yes, to my knowledge, there may be more.

Q. I mean to your knowledge.

A. Shall I name them over?

Q. You have named them?

A. Well, here is George L. Ramsey and wife. My recollection of that is that this was scrip that was bought and the land deeded to Mr. Cobban by George L. Ramsey and wife, whether it was under a private agreement or not, I have no knowledge. Edward F. Tippett and wife, and William O. Warren. I would say in connection with that, with other parties on here

(Testimony of Chauncey L. Griswold.)

the name of Andrew Jacobson and wife. My recollection is that these claims were made some time prior to the 22d day of May, 1899, and final proof had already been made when Mr. Cobban came into the country.

Q. Now, I desire, Mr. Griswold, to have you cut out and eliminate from that list, all of them that you know were not connected with the timber and stone entry, under a prior agreement, and just confine yourself to the list, and analyze it and go over those which conveyed to Mr. Cobban, other than those that are named in the bill of complaint?

By Mr. WALSH.—We object to that upon the ground that it is irrelevant and immaterial and leading.

A. The facts of the matter in regard to the others which I haven't marked here, are located in a section of country from which I was barred, after the assigning of my contract with Mr. Cobban on the 22d day of May, he telling me at that time and place, namely, at Clearwater, that he had entered into an express agreement with Mr. Morris to go down and make these locations in that country, namely, Camus, Prairie and Gold Creek.

Q. Where did that conversation take place?

A. At Clearwater.

Q. These were made then, as you understand it, by Mr. Morris, under a contract with Mr. Cobban?

By Mr. WALSH.—We object to that on the ground

(Testimony of Chauncey L. Griswold.)

that it calls for a conclusion of the witness, and not for any testimony.

A. Yes, sir, that is, the majority of them.

By Mr. WALSH.—We object to that for the reason that it is leading, and irrelevant and immaterial, and is not based upon any knowledge of the witness concerning the facts.

(Witness continuing.) There are some of these claims that were taken up outside of the territory, for which I was covering, namely, the Staley claim, the Dodd claim, the Cora Faust claim, the Louis S. Jakways claim, the Charles E. Johnson claim, the Ambrose Martin claim, the Richard Pelkey claim, the Jaspar B. Seeley claim, the Herman H. Spiker, Charles N. Young, as well as Simon C. F. Cobban.

Q. Just what is this list, Mr. Cobban, that you have just given?

A. Why, it comprises the names of the people, the entrymen and entrywomen, taking up claims outside of the territory I was requested to cover by Mr. Cobban at the—the time of the signing of my contract.

Q. Well, it was taken up after this contract?

A. I couldn't say that it was taken up under that contract.

Q. Which ones were taken up under the Morris contract?

A. The claim of Susa Alford, John A. Alford, Henry A. Amiraux, John Beaton, John B. Beaton, George T. Belle, Abraham L. Farmer, Alice M. Cobban, George L.

(Testimony of Chauncey L. Griswold.)

Elliott and wife, William Dorsett and wife, John H. Morris and wife, Albert E. Pound and wife, and T. A. Price and wife, is all that I am sure of that was taken up under the Morris contract.

Q. Now, Mr. Griswold, you may state as to whether or not Mr. Cobban afterwards expressed his dissatisfaction to you with the way Morris had served him, and asked you to go on and do the work that Morris had contracted to do?

By Mr. WALSH.—We object to that for the reason that it is immaterial and irrelevant and incompetent, and further it is leading, and has nothing on earth to do with the inquiry, whether Morris had anything to do with any of the entries that are referred to in the bill of complaint.

Q. When and where was that?

By Mr. WALSH.—We object to that upon the ground that it is leading. Further, it is irrelevant and immaterial, and has absolutely nothing to do with the inquiry here; whether Morris had anything to do with any of the entries referred to by the witness is entirely irrelevant and immaterial.

A. My recollection of that conversation between Mr. Cobban and myself was that it was in his office in the city of Missoula.

Q. And what was it?

By Mr. WALSH.—We object to that upon the ground

(Testimony of Chauncey L. Griswold.)

that it is immaterial and irrelevant, and further it is leading and hearsay.

A. That he stated that the manner in which Mr. Morris was selecting this land that he was making mistakes, and requested me then and there to go and make the selections of timber lands in the Gold Creek valley, or rather on Gold Creek.

Q. Did you do that?

A. I did, yes, sir.

Q. And that was in what you called the Morris territory? A. Yes, sir.

Q. Now, do I understand you—do you wish to be understood as to the fact of the entries being made by these persons that you have named being the same as you have testified to as named in the bill of complaint?

A. Well, most of the selections that I made in Gold Creek were on unsurveyed lands, which were scrip. I have no recollection of putting anyone on there now, under the timber and stone laws. But Mr. Jemison, who was working for me, did locate some people under the Timber and Stone Act, which Mr. Cobban gave me credit for.

Q. Are they named in this list?

A. They are, yes, sir, some of them.

Q. Now, then, the counsel brought out the fact, Mr. Griswold, that you were present at the time arrangements were made in your presence, and money was left by Cobban with Jackaways and Faust; do you remember that? A. I do, yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. Well, what were the facts and circumstances connected with that?

By Mr. WALSH.—He has told about that.

By Mr. MAYNARD.—When did he tell that?

By Mr. WALSH.—He did it in answer to your question.

By Mr. MAYNARD.—I thought you brought it out this afternoon. I asked him about it because you asked him about it this morning.

Q. Do you remember if you did, Mr. Griswold?

A. I don't remember doing it yesterday. I think I did it in my former testimony. I couldn't say whether I did yesterday or not.

Q. Well, what was the fact about it, Mr. Griswold?

A. The fact is that Mr. Cobban told them that he would reimburse them for any money they had already advanced, and leave more money with them for the same purpose, and if that run out that they should use their own funds, and he would reimburse them the next time he came up there, or the next time he saw them, or words to that effect.

Recross-examination.

(By Mr. WALSH.)

Q. Mr. Griswold, you testified, I believe, that you got this money for the Gilles entry proof from Mr. Cobban at Ovando; is that correct? A. Yes, sir, it is.

Q. And that time he gave you $2,700.00?

(Testimony of Chauncey L. Griswold.)

A. Two thousand seven hundred and forty dollars, according to my recollection.

Q. In what shape did he give it to you?

A. My recollection is that he gave me three checks.

Q. For how much?

A. The aggregate amount was $2,740.00, according to my recollection; Mr. Cobban gave me one check for $1,600.00, another for $1,000.00 or $1,000.00, and another for $140.00, but I wouldn't swear positively in regard to that.

Q. Why was the money divided in that way?

A. I wouldn't say that I have any reason to know whether it was divided or not.

Q. You gave him a receipt for the $2,740.00?

A. I believe not. My recollection is that I did not.

Q. You took the money without giving any memorandum of any character to show it?

A I didn't take any money at all.

Q. Didn't you say that he gave you $2,740.00?

A. Two thousand seven hundred and forty dollars, yes, sir.

Q. You draw a broad distinction between $2,740.00 in money and $2,740.00 in check?

A. Why, I assuredly do.

Q. Did you give him any receipt for the money represented by the check?

A. I have no recollection of giving Mr. Cobban any receipt at all at that time.

(Testimony of Chauncey L. Griswold.)

Q. You don't remember of giving him any three receipts?

A. No, I don't. I don't remember of giving him even one.

Q. You know that you didn't, don't you?

A. I am at this time well satisfied that I didn't give Mr. Cobban any receipts for the simple reason that the canceled checks would be equivalent to a receipt and show that I had received the money.

Q. But you are pretty sure he gave you $2,740.00.

A. I remember that he gave me $2,740.00.

Q. And that $2,740.00 you paid for the Gilles and Cloutier claims? A. Yes, sir.

Q. How much money?

A. My recollection is that I paid into the land office $802.00, and I paid Mr. Gilles, to the best of my recollection, $250.00 over and above his expenses, and I paid to Mr. Cloutier $100.00 over and above his expenses in acquiring title to this land.

Q. That was the money that you paid over in Harry Zayas' saloon?

A. Yes, sir, that is, outside of the money that I paid into the land office.

Q. As a matter of fact, Mr. Griswold, you didn't pay what you paid on the Gilles and Cloutier claims out of that money that you got up at Ovando, whether it was $2,700.00, or any other amount of money.

A. I assuredly did.

Q. When was this that you were up at Ovando?

(Testimony of Chauncey L. Griswold.)

A. My recollection is that it was about the 29th day of July, 1899.

Q. As a matter of fact, Mr. Cobban gave you $840.00 in one sum, did he not, to pay at the land office for the Gilles and Cloutier claims.

A. Mr. Cobban gave me nothing of the kind. He gave me checks, the aggregate of which amounted to $2,740.00 at that time. What the amount of the checks was, I cannot say.

Q. I will ask you, Mr. Griswold, if that is your signature? (Counsel hands witness a paper.)

A. That is my signature, yes, sir.

By Mr. WALSH.—I ask that this paper be marked as an exhibit.

By the EXAMINER.—That will be marked Defendant's Exhibit No. 206.

Q. Do you know in whose handwriting that is, comprising the body of this paper, Mr. Griswold?

A. It resembles the handwriting of Mr. Cobban.

Q. Well, it is his handwriting, is it?

A. I wouldn't swear that it was. I say that it resembles it.

By Mr. WALSH.—Cosmopolitan Hotel, Burgard & Simon, Proprietors, 45 and 46 South Main street (Every street-car in the city passes the door), Helena, Montana, August first, 1899. Received of R. M. Cobban, account of Gilles and Cloutier claim for land office $840.00. C. L. Griswold.

(Testimony of Chauncey L. Griswold.)

By the WITNESS.—Do you mean to say that that is August first?

By Mr. WALSH.—That is the way I read it. Do you see anything different?

A. I wouldn't say; I couldn't say. I see nothing representing an A.

Q. Have you—if you don't see any reason to doubt that the memorandum tells about the receipt of $840.00, paid for the Gilles and Cloutier claims in the Land Office, why don't you say so?

A. I don't see any doubt about it. The date is all that I can see.

Q. The date is the only thing that you question.

A. Yes, sir.

Q. Now, in view of this memorandum, do you desire to make any change in your testimony about where you got the money to pay for the Gilles and Cloutier claims?

A. I do not, no, sir.

Q. What explanation have you got to make to this paper?

A. I will say that if this paper is correct, there is an error. That Mr. Cobban gave me no checks in Ovando on or about the date, the 29th day of July, 1899.

Q. Didn't you say a while ago, Mr. Griswold, that you gave Mr. Cobban no receipts for the money?

A. I did. No, I didn't say I didn't give a receipt for the money. I said I didn't give a receipt for the check amounting to $2,740.00.

(Testimony of Chauncey L. Griswold.)

Q. Did you get any money comprising the $2700.00 except the checks? A. I did not.

Q. Did you not say that you gave Mr. Cobban no receipt at all for the $2,700.00?

A. I did not to the best of my recollection.

Q. Well, have you any recollection better about it now? A. I have not.

Q. I wish you would state what recollection you have about the memorandum, Exhibit No. 206?

A. I have no recollection of it at all.

Q. When did you see this paper first?

A. About ten minutes ago.

Q. So far as your recollection serves you now, you never saw it before that time?

A. I wouldn't say whether I did or did not.

Q. Now, the counsel desires you to make some explanation if you could, of the Gilles receipt, exhibit No. 204 as follows: Received from C. L. Griswold on account of loan on land, $339.10, three hundred and thirty-nine and ten/00 Helena, August 22, 1899, John Gilles, and in the course of your explanation you told about having paid to Gilles $250.00.

A. I did, together with the expenses incurred in making the application to purchase, as well as the expense of the final proof.

Q. How much did you pay him at that time in addition to the $250.00? A. I cannot say.

Q. You did pay him something in addition to the $250.00? A. Yes, I certainly did.

(Testimony of Chauncey L. Griswold.)

Q. Whatever his expenses were for making final proof?

A. Yes, sir, probably something in addition to that.

Q. You paid him that, did you?

A. Yes, sir, probably something in addition to that.

Q. For what?

A. For labor, I suppose. Mr. Gilles had formerly worked for me.

Q. Now, that was after the final proof was made, wasn't it? A. Yes, sir.

Q. And after he had executed the deeds—the deed I mean? A. Yes, sir.

Q. You didn't loan him that money, did you?

A. I assuredly did not.

Q. So that if you did loan him any money at all, it was some money, other than the money which you paid him in Harry Zayas' saloon, was it not?

A. I haven't said that.

Q. Now, I understand you have not. But I say, if you had loaned him some money, it was some money other than the money that you paid him in Harry Zayas' saloon?

A. I have no recollection about ever loaning Mr. Gilles any money.

Q. You know that you didn't loan him the money that you gave him in Harry Zayas' saloon?

A. I do.

Q. So that if you ever did loan him any money, it wasn't that money?

(Testimony of Chauncey L. Griswold.)

A. It wasn't that money, no, sir.

Q. Where did you get this list of names that you have produced here, and handed to the stenographer?

A. I got it from the stenographer in one of the buildings in the city of Helena.

Q. When did you get it?

A. Since the adjournment this morning.

Q. Since the adjournment at the dinner hour, for lunch? A. Yes, sir.

Q. And how did he get the names?

A. I think that I gave him a portion of them.

By Mr. MAYNARD.—I furnished the list, I will tell you now.

By Mr. WALSH.—Well, let the witness tell it.

A. I got the list and gave it to the stenographer to copy.

By Mr. MAYNARD.—I got the list for Mr. Griswold to see this afternoon. I had shown it to him before, and I got the list so that he could refresh his memory by it.

Q. Now, Mr. Griswold, I want to know where the stenographer got this list?

A. He got them from Mr. Maynard. Mr. Maynard received them from me prior to that time, several of them.

Q. When did you get them, and give them to Mr. Maynard?

(Testimony of Chauncey L. Griswold.)

A. Since I have been in Helena this last time. I wouldn't say the date exactly.

Q. Have you got with you the memorandum from which you refreshed your recollection to furnish these names? A. I have a portion of it.

Q. Let me see it please.

A. There is one. (Witness hands counsel papers taken from his pocket.)

Q. Do you know Orville C. Clark?

A. I don't, only by reputation.

Q. Where does he live, Mr. Griswold?

A. I couldn't say.

Q. Did you ever speak with him? A. I did not.

Q. He is a minister of the Gospel residing at Missoula, isn't he? A. I was so informed of that.

Q. Minister of the Presbyterian Church, isn't he?

A. I couldn't say as to the denomination.

Q. Who located him?

A. My recollection is that Mr. Jemison located him.

Q. Will you swear to that?

A. I wouldn't swear to it.

Q. What do you know about any agreement with Orville C. Clark, with any person prior to the time he made final proof that he would convey the land after he had made final proof?

A. I know nothing of the facts, further than the testimony of Mr. Jemison.

Q. What is that?

A. Why, I know nothing of the facts, further than

(Testimony of Chauncey L. Griswold.)

the testimony of Mr. Jemison. Mr. Jemison testified to that.

Q. Upon this hearing here?

A. No, sir, not here, in Butte.

Q. In this hearing here?

A. Yes, in this hearing before the Examiner.

Q. Mr. Jemison testified that he had made an agreement with Mr. Clark whereby he was to transfer the land to Mr. Cobban after making final proof?

A. I don't know that he did. He testified about locating Mr. Clark. That is my recollection of it.

Q. You think he did? A. Yes, sir.

Q. Now, the question is, do you know anything about any agreement that Mr. Clark had with anybody by which he was to transfer the land to Mr. Cobban upon making final proof? A. I do not.

Q. Who located Susa Alford?

A. I am under the impression and have been told that Susa Alford was located by Mr. Morris.

Q. You don't know anything at all about it yourself, do you?

A. I don't, only what I have been told.

Q. What do you know about her having made an entry at all? A. Sir?

Q. What do you know, I say, about her having made an entry at all?

A. Only so far as I have been told, and what the records of the recorder's office in the city of Missoula show.

(Testimony of Chauncey L. Griswold.)

Q. Did you see the records in the recorder's office in Missoula?

A. I believe I have seen them, yes, sir.

Q. Well, can you swear that you have seen them?

A. I know that I have seen the records in the recorder's office of Missoula.

Q. You swear that you have seen the record of a deed from Susa Alford to Robert M. Cobban?

A. I wouldn't be positive in regard to that.

Q. Now, did you see any record of this—any record of any entry made by Susa Alford anywhere?

A. Well, I say I wouldn't be positive that I did, but I think I did. I have seen a good many entries in the Missoula office.

Q. Now, who told you anything at all about Susa Alford's entry?

A. Why, I believe that I saw the notice published in the "Garnet Mining news," that she had made a location.

Q. Well, that isn't in answer to the question. The question is, who told you anything about her entry?

A. My recollection is that Mr. Morris told me about this entry.

Q. What did he tell you?

A. That he had located her on a piece of land.

Q. Anything more?

A. I don't know that he did.

Q. You don't know that she ever made final proof, do you? A. I do not.

(Testimony of Chauncey L. Griswold.)

Q. And yet, you are perfectly willing to testify that you got information from some of your assistants that Mrs. Susa Alford made an entry under the same circumstances as those you have testified to and that are referred to in the bill of complaint in this case.

A. I am not; I couldn't testify to anything of the kind, because Mr. Morris wasn't in my employ, nor was he one of my assistants.

Q. You gave this list, did you not, in answer to the question addressed to you, to tell the names of persons from whom you had got any information with reference to these entries, as you gained it from your assistants who had located persons under the same circumstances as these named in the bill of complaint?

A. My recollection of that matter is that Mr. Morris mentioned the names of Mrs. Alford, in connection with other locations that he had made in his territory. Further, I now believe—

Q. No, you are not asked what you believe. Who located John A. Alford? A. I couldn't say.

Q. You don't know, do you? A. No, sir.

Q. Do you know that he had ever taken up a timber claim? A. I do not.

Q. Did you know that he had ever made final proof upon a timber claim?

A. I have every reason to believe that he did.

Q. Do you know whether he ever did or not?

A. I don't know positively whether he did or not.

(Testimony of Chauncey L. Griswold.)

Q. Do you know whether he ever conveyed a timber claim to Mr. Cobban or not? A. I do.

Q. What do you know about it?

A. I know that him and his wife did convey to Cobban.

Q. What do you know about that?

A. I know that the records of Missoula County will show it.

Q. Have you seen the records of Missoula County?

A. Yes, sir.

Q. When did you see it?

A. I couldn't say the last time I saw it.

Q. In Missoula County, you say, you saw a record of this matter? A. Yes, sir.

Q. Who located John D. Beaton?

A. Mr. Morris, I think.

Q. What do you know about that?

A. I don't know anything about that, only what Mr. Morris has told me.

Q. What others told you anything about it?

A. I believe Mr. Beaton himself.

Q. When and where did you talk to Mr. Beaton about this matter?

A. I couldn't say anything about it. I think Mr. Beaton told me, though.

Q. Did Mr. Beaton tell you he had made a prior agreement to convey the land to Mr. Cobban after he had made final proof? A. He did not.

Q. Who located George T. Bell?

(Testimony of Chauncey L. Griswold.)

A. I don't know.

Q. Do you know George T. Bell?

A. No, sir, I don't think I do.

Q. Did you ever talk with George T. Bell?

A. No, sir.

Q. What facts do you know concerning the entry of George T. Bell?

A. I don't know any facts about it at all.

Q. Who was Joseph F. Comee?

A. He is a man that was engaged in the fish raising business.

Q. Where was he located?

A. He was on section 1, in township 17 north, of range 13 west, I believe.

Q. Do you know that he took up a timber and stone claim?

A. I do not. I know that he did not.

Q. You know that he did not, you say?

A. Yes, sir.

Q. What did you give this man's name for when you were addressed by counsel, and he requested you to give the names of persons concerning whom you had information from your assistants that they had taken up claims under circumstances similar to the Stewart claim, except in the case of Stewart, he retained the land?

A. The condition of the Joseph F. Comee claim is similar to that of Stephen Tepper, namely, that he commuted his homestead under an agreement with Mr.

(Testimony of Chauncey L. Griswold.)

Cobban, that he was to furnish the money to pay the expenses, and afterwards transfer his land to Mr. Cobban?

Q. What did you ever have to do with that claim?

A. Talked with Mr. Comee about it.

Q. Did Mr. Comee tell you that?

A. He did.

Q. When and where did he tell you that?

A. In Missoula.

Q. When did he tell you that?

A. I couldn't say the date, some time prior to the time that he made final proof.

Q. Now, do you know that Mr. Comee got the money with which to make final proof from Mr. Cobban?

A. I don't know it.

Q. You don't know anything about it?

A. No, sir.

Q. Do you know whether he conveyed to Mr. Cobban or not? A. I do.

Q. How do you know he conveyed to Mr. Cobban?

A. Mr. Comee told me that Mr. Cobban told him that he, Mr. Cobban, had to give me two and a half cents a thousand for the lnmber that was on Mr. Comee's claim.

Q. That was for estimating the timber on it, wasn't it?

A. No, I had nothing to do with estimating the timber on it.

Q. What was it for then?

(Testimony of Chauncey L. Griswold.)

A. For and in consideration of my contract which I had entered into with Mr. Cobban on the 22d day of May, 1899.

Q. What did you do with reference to Mr. Comee's claim?

A. I believe I called Mr. Cobban's attention to it, and I believe I made the arrangement with Mr. Comee.

Q. Made the arrangement to sell?

A. Made the arrangement to sell, yes, sir.

Q. Who located Orville C. Clark, or Orville C. Clark and wife?

A. My recollection is that Mr. Jemison located Mr. Clark, the Reverend Mr. Clark.

Q. Mr. Jemison told you that he had entered into an agreement with the Rev. Mr. Clark prior to the time that the Rev. Mr. Clark made final proof upon the land, did he? And that he would convey to Mr. Cobban after he had made final proof?

A. He didn't say that it was made under an agreement with Mr. Jemison, but that it was made with Mr. Cobban himself.

Q. What do you know about the entry of Mr. Orville C. Clark?

A. Nothing, I don't know anything about it.

Q. You only know what you were told?

A. Mr. Jemison told me he had located Mr. Clark.

Q. Did he tell you that an agreement had been made, Mr. Griswold; did Mr. Jemison tell you he had made an agreement with Mr. Clark, prior to the time

(Testimony of Chauncey L. Griswold.)

he had made final proof, that he would convey the land to Mr. Cobban after final proof had been made in his case? A. No, sir.

Q. Did Mr. Clark tell you that?

A. No, sir, he did not.

Q. Why did you give the name of this gentleman in answer to the question propounded to you by counsel to give the names of those persons concerning whom you had information from your assistants that they had made entries, under the same circumstances, as the entries set forth in the bill of complaint, with the single exception that Mr. Stewart had arranged to retain the land.

A. For the simple reason that the record of the Missoula Land Office shows that the Reverend Mr. Clark had made final proof on his claim and at the time he made final proof, had transferred his claim to Mr. Cobban.

Q. So that when you were asked the question by counsel you simply gave him a list of the names of persons who had conveyed lands to Mr. Cobban, a short time after they had acquired title to it?

A. Yes, sir.

Q. That is all you meant to give him at the time that you made your answer to that question?

A. Well, that would cover a great many of the locations.

Q. Well, if there is anything else, Mr. Griswold, I

(Testimony of Chauncey L. Griswold.)

wish you would tell it. Now, what, if anything, did you know about the entry of Simon C. F. Cobban?

A. I know that Mr. Cobban went up there into that country with Mr. and Mrs. Hardy, and Mr. R. M. Cobban, and did locate on a claim that I had already designated, and pointed out to Albert Jemison to locate for me under the contract eixsting between Mr. Jemison and myself, and Mr. Cobban refused to pay me my commission on that claim.

Q. That is all you know about that?

A. Yes, sir, further than Mr. Simon C. F. Cobban did transfer the claim to Mr. R. M. Cobban.

Q. Did Mr. Simon C. F. Cobban tell you he had made an agreement to convey the claim to R. M. Cobban immediately after making final proof?

A. He did not.

Q. Did he tell you that he had made an agreement with R. M. Cobban to convey the land to him after having made final proof? A. No, sir, he did not.

Q. Did anybody tell you that any such agreement whatever existed between R. M. Cobban and Simon C. F. Cobban? A. No, sir.

Q. Why did you give this name in answer to the question addressed to you by counsel to give the names of those persons concerning which you had been informed by your agents, that they had made their entries, under the same circumstances, and with the same agreement as existed with reference to the entries in

(Testimony of Chauncey L. Griswold.)

the bill of complaint with the exception that Mr. Stewart was to retain the land?

A. For the simple reason that the records in Missoula county show that Simon C. F. Cobban did convey his claim to R. M. Cobban, after he had made final proof.

Q. And from that fact you reached the conclusion that this man had made his entry under the same circumstances as Mr. Stewart, with the exception that Mr. Stewart was to retain the land?

A. I do not. Simon C. F. Cobban is a man that is worth a good deal of money, and he wouldn't have to borrow the money to prove up on his claim.

Q. I will ask you the question again. Why did you give the name of this gentleman in answer to the question addressed to you by counsel to give the names of these persons as to whom you had an agreement or information from your agent, that they had an agreement with these parties, and had made the entries, under the same circumstances as the parties named in the bill of complaint, with the single exception that Mr. Stewart was to retain the land?

A. For the simple reason that I do not know, and do not believe that Mr. Simon C. F. Cobban made any arrangement with R. M. Cobban to borrow the money to make final proof on his land. Simon C. F. Cobban is a man of considerable means, and would not have to borrow the money to make this final proof.

Q. That is to say, as far as you have any belief,

(Testimony of Chauncey L. Griswold.)

whatever you believe that Mr. S. C. F. Cobban did not borrow the money of R. M. Cobban to prove up on his claim? A. Yes, sir.

Q. In other words, that he paid his own money?

A. Yes, sir.

Q. And in his case, at least, if there is no other in the list, the circumstances were utterly different from the case of Mr. Stewart?

A. I wouldn't say that, I do believe, and am utterly convinced that there was an agreement between Simon C. F. Cobban and R. M. Cobban, whereby the title to his land was to be conveyed to R. M. Cobban as soon as the title could be perfected.

Q. What knowledge have you of the fact?

A. I have no knowledge.

Q. Who told you so?

By Mr. MAYNARD.—Other than that which you have already stated. He went and told you the particular fact.

Q. Without going over this list further in detail, is there one upon it concerning which you have any knowledge at all? A. There is.

Q. Which one is it?

By Mr. MAYNARD. (To the Witness.)—Take the list and go over it one by one.

A. The first two that appear on the list is Henry A. Amiraux and wife.

Q. What do you know now about the entry of Henry A. Amiraux and wife?

A. I know that they entered the land and did subse-

(Testimony of Chauncey L. Griswold.)

quently convey to Mr. Cobban. I know the people, and I don't think it would be possible for them to raise the amount of money that would be required for the purpose of proving up and obtaining title to 160 acres of land in that country.

Q. What else do you know?

A. I know that they conveyed to Mr. Cobban.

Q. Do you know anything else?

A. No, sir, other than the fact that they were located by Mr. Morris.

Q. Did Mr. Morris ever tell you that they had made an agreement to convey the land to Mr. Cobban after final proof was made? A. He did, he or they.

Q. He or who?

A. In connection with that I presume, and have every reason to believe—

Q. Wait a moment, wait a moment; I am going to ask the Examiner to instruct the witness to state what he knows.

A. Well, I can say that positively.

Q. Prior to the time they had made final proof, they had agreed to sell the land?

A. I wouldn't say that they had.

Q. Did anybody else tell you?

A. I wouldn't say that they did. My recollection now is that Mr. Cobban gave me a great many of the names comprised in this list when he directed me or requested me send a man to go down into that country, and estimate the timber on these several descriptions of land.

(Testimony of Chauncey L. Griswold.)

Q. You may proceed down the list, Mr. Griswold. I told you to go down the list and point out those that you know anything about.

A. Well, there is the case of George L. Elliott, and wife.

Q. Very well; tell us what you know about that entry?

A. Well, they both took up claims under the Stone and Timber Act, wholly for the interest of R. M. Cobban.

Q. Mr. Griswold, did you understand the question I asked you?

By Mr. MAYNARD.—Certainly, he has answered it. All I ask, Mr. Examiner, is that the preceding question and answer be read to the witness.

By the EXAMINER.—Mr Walsh now has the witness, and can question him in any way that he sees fit, and you can have ample opportunity when he is through with him to have everything explained, and if Mr. Walsh in any way misrepresents him, or anybody else, as I have stated, the court which reviews this testimony, will understand that, too.

Q. What do you know about their having taken up these claims in the interest of R. M. Cobban?

A. They were simply locating in territory from which I was barred, and wherein Mr. Cobban told me he was working under the same conditions that I was working, that he had others working in that territory the same as I was.

Q. And you know that they located in that locality?

A. Yes, sir.

(Testimony of Chauncey L. Griswold.)

Q. Now, what more do you know about that location?

A. I know the records in the office of the clerk and recorder at Missoula show that the transfer was made by the Elliotts to Mr. Cobban, immediately, or very soon after the making of the final proof.

Q. Now, do you know anything more about their entries, Mr. Griswold? A. I do not.

Q. And from those facts you reached the conclusion that they located their claims in the interest of Mr. Cobban? A. Yes, sir.

Q. And were the facts and circumstances connected with their claims the same as the facts and circumstances connected with the Stewart claim, except that Mr. Stewart was to keep the land?

A. I didn't say anything of the kind, because I overheard the conversation between Mr. Stewart and Mr. Cobban, and I didn't overhear the conversation with these parties.

Q. In answer to the question addressed to you by counsel to give him a list of the names of persons, as to whom you had information from your assistants that the facts and circumstances were exactly the same as the facts and circumstances, in connection with the Stewart claim, except that Stewart was to retain his land, did you give the name of Mr. Elliott and his wife?

A. I believe I did.

Q. Now, you say that the facts and circumstances connected with the Elliott claim are quite different from the

(Testimony of Chauncey L. Griswold.)

facts and circumstances connected with the Stewart claim?

A. I don't believe the name of Mr. Elliott was named in my giving a list of the names contained on this piece of paper.

Q. Pass on down to the next one that you know in which a timber and stone claim was located under the same conditions and circumstances as the Stewart claim, as you gained information from your assistants.

A. There is the case of Allen Dodd.

Q. You have told us all about Allen Dodd's entry. Pass right on to the next, Mr. Griswold.

By Mr. MAYNARD.—Do I understand by that, Mr. Walsh, that you concede that that entry was made under claim?

By Mr. WALSH.—I don't know what you understand. You understand a great many things about this case that we do not.

A. There is the case of Benjamin S. Helms.

Q. Now, tell us, Mr. Griswold, what you know about Mr. Helms' entry.

A. I know that Mr. Pat Hayes, a neighbor of Mr. Helms, came to us in the city of Missoula and requested me to go on to this claim of Mr. Helms, so as to be able to testify eventually as a witness to him, and that I conveyed Mr. Hayes to this land to look over it.

Q. What else did you do?

A. I know that he immediately transferred to Mr. Cobban, immediately after making final proof.

(Testimony of Chauncey L. Griswold.)

Q. What else do you know about it?

A. I don't know anything else about it.

Q. Well, pass on to the next.

A. There is Wilmer H. Hubert.

Q. Well, what do you know about that entry?

A. I know that he went up there and took up a claim in the interest of R. M. Cobban.

Q. The interest of R. M. Cobban, Mr. Griswold, is a deduction of what you saw, not from what you know. I didn't ask you for any deductions that you might draw from what you know; I asked you what you know about it.

A. I know that he took up a claim.

Q. What do you know about that?

A. I know that I loaned him a portion of my outfit, to go upon these lands.

Q. What more do you know?

A. I know that he went away but whether he went upon the lands or not, I couldn't say, and that he subsequently conveyed to Mr. Cobban.

Q. What else do you know?

A. I don't know whether it was immediately or not.

Q. What else do you know?

A. Well, that is about all, I think.

Q. Go on to the next one, Mr. Griswold.

A. Anthony Johnson. I don't know anything about that.

Q. Go on to the next one, then.

A. Andrew Jacobson and wife. My recollection is

(Testimony of Chauncey L. Griswold.)

that they had made final proof long prior to the time when Mr. Cobban came into the country.

Q. Why did you say, in answer to that question, that Andrew Jacobson took up a claim under the same circumstances?

A. Because I have no positive recollection in regard to the claim. That is simply my impression about it.

Q. Why did you give that name in answer to that question?

A. Simply because I didn't know, and told him so.

Q. Pass on to the next one.

A. Martha Larson. I don't know anything about that.

Q. Well, go on to the next one.

A. Wallace J. Miller. Mr. Jemison told me that he had located Mr. Miller himself.

Q. Mr. Jemison told you so? A. Yes, sir.

Q. Will you swear to that?

A. Yes, sir; I am positive of it.

Q. I wish you would tell us when Mr. Jemison located Mr. Wallace J. Miller? A. I couldn't tell you that.

Q. What else did he say to you about locating Wallace J. Miller?

A. Told me he had located him under an agreement with Mr. Cobban.

Q. What else did he tell you?

A. Don't think that he told me anything else.

Q. What else do you know about it?

A. Nothing else, except that Mr. Miller conveyed to

(Testimony of Chauncey L. Griswold.)

Mr. Cobban, did convey to Mr. Cobban immediately after making final proof.

Q. As a matter of fact, don't you know that Mr. Morris located Mr. Wallace J. Miller?

A. I couldn't say as to that.

Q. Mr. Jemison told you that he did?

A. That is my recollection of it, yes, sir, that he located one Miller, whether it was this one or not, I don't know.

Q. There is another one, then, is there, another Miller?

A. Yes, sir. There is George Miller and wife. Which one it was, I wouldn't be positive. My recollection is that he told me he had located Wallace J. Miller.

Q. Pass on to the next one.

A. The next one is George Miller and wife, whom I know nothing about.

Q. George Miller and wife, you say? A. Yes, sir.

Q. Pass on to the next one.

A. John H. Morris and wife. John H. Morris is a brother of David Morris, I think.

Q. What do you know about John H. Morris?

A. Nothing at all.

Q. You know nothing at all about John H. Morris?

A. No; I don't know anything about that.

Q. Pass on to the next.

A. Matthew McDonald.

Q. What do you know about that, Mr. Griswold?

A. I know he took up a claim. He was a workingman, working for Pat Haynes, and Mr. Hayes came to me and

(Testimony of Chauncey L. Griswold.)

wanted me to select the land for Mr. McDonald, and we couldn't agree on the price, and I met Mr. Hayes in the city of Missoula and took him into Mr. Cobban's office, and they did then and there, or soon after, make an agreement, whereby he transferred the land to Mr. Cobban.

Q. Was Mr. Hayes working for you? A. No, sir.

Q. Did you not know, when you gave counsel this name, whether or not you had any information from your assistants as to this claim being taken up under similar circumstances and conditions to that of Mr. Stewart?

A. I do.

Q. When you were asked to give the names concerning persons whom you got information from your assistants, why did you give the name of Matthew McDonald?

A. In reference to this claim, I was pretty sure that it was taken up under practically the same circumstances.

Q. What assistants of yours, did you get any information concerning this claim from?

A. Didn't get any from any assistant that I had.

Q. Go on to the next one, Mr. Griswold.

A. Norman Newell and wife. Mr. Jemison told me he had located one of the Newells, but I wouldn't say which one.

Q. Either him or his wife, is that the way it was?

A. Yes, sir; perhaps both.

Q. What other facts did he tell you about, Mr. Griswold?

A. He told me that he had located for Mr. Cobban, and I couldn't get any pay for that.

(Testimony of Chauncey L. Griswold.)

Q. What else do you know about that, Mr. Griswold?

By Mr. MAYNARD.—Did you know of the conveyance, Mr. Griswold?

By the WITNESS.—Yes; I know of the conveyance from Newall and wife to Cobban.

Q. Pass on to the next one, Mr. Griswold.

A. John H. Olsen. He keeps a saloon at a place called Potomac at Camus. He was located, I am informed, by Mr. Morris, for and in the interest of R. M. Cobban.

Q. Well, was Morris one of your assistants?

A. No, sir; he was not.

Q. Did Mr. Morris say to you that he would locate him in the interest of R. M. Cobban.

A. I wouldn't say that he did say anything of the kind.

Q. What fact did you know, from which you deduced the conclusion that he was located in the interest of R. M. Cobban.

A. From the simple fact that Mr. Cobban was locating a great many people in that vicinity, and I am well satisfied that Mr. Olsen has no money with which to perfect title to 160 acres of land, or any other amount.

Q. Did you ever know him to commute a homestead?

A. Yes, sir.

Q. Did you ever know of a man homesteading a claim after he had commuted?

A. No, sir; I have no recollection of it.

Q. You have no recollection about that?

A. No, sir; further than the land, they may have

(Testimony of Chauncey L. Griswold.)

kept the land without commuting and disposing of the timber.

Q. Are we to understand you as asserting that no man ever in the Missoula land office commuted in the Missoula land office, without having a prior agreement?

A. No, sir; you are not to understand anything of the kind.

Q. In other words, do you know of a homesteader desiring to commute, after having borrowed the money with which to locate?

A. I have no recollection of anyone borrowing money.

Q. Albert E. Pound and wife, what do you know about Albert E. Pound and wife?

A. I know that Mr. Pound was at that time acting in the capacity of bookkeeper for R. M. Cobban.

Q. What else do you know with reference to his location of a timber claim?

A. I know that he was located in the vicinity from which I was barred, and was told by Mr. Cobban that Mr. Morris was acting there for him, the same as I was doing, in other portions of the Blackfoot country.

Q. What else do you know?

A. Nothing, except that he transferred to R. M. Cobban, immediately after making final proof.

Q. Just a minute, when did Mr. Pound locate?

A. My recollection is that it was in the month of June, 1899. I wouldn't be positive in regard to that.

Q. What do you know about it?

(Testimony of Chauncey L. Griswold.)

A. Don't know anything more than what I have said.

Q. You are simply guessing, are you?

A. No, sir; I am not guessing, or anything of the kind.

Q. What else do you know about it, Mr. Griswold?

A. I know he located, and immediately transferred to Mr. Cobban.

Q. What do you know concerning the location of Mr. Pound?

A. I don't know anything about it generally.

Q. Why do you say generally more than specially?

A. My recollection is that Mr. Pound and Mrs. Cobban together with Mrs. Price, Bessie M. Price—Mr. Cobban told me that they had been up there, my recollection is, in the month of June.

Q. That is all you know concerning the manner in which Mr. Pound located? A. Yes, sir.

Q. Where did Mr Pound take his timber claim?

A. In or near what is called Camus Prairie.

Q. Why, you know as a matter of fact, he took his claim long before you ever thought of going to work for Mr. Cobban? A. No, sir.

Q. You have seen his deed, haven't you?

A. I couldn't say that I have.

Q. You have seen the record of it?

A. Yes sir; I believe I have. I believe I can give you the description of it.

(Testimony of Chauncey L. Griswold.)

Q. Of course, you have seen the record of the final receipt, also? A. I couldn't say that I have.

Q. You couldn't say as to that?

A. No, sir; I could not.

Q. Go on to the next one, Mr. Griswold.

A. T. A. Price and wife. I believe that refers to Bessie M. Price, who is a sister as I am informed of Mrs. Cobban.

Q. What is that?

A. T. A. Price and wife. I am informed that Mrs. Price is a sister of Mrs. Cobban, R. M. Cobban, and she or Mr. Pound told me that she accompanied him up there. That is my recollection of it, up to Camus Prairie, for the purpose of locating them on this land.

Q. That is all you know about this entry?

A. Yes, sir; further than the fact that she did locate, and make final proof, and subsequently transferred to R. M. Cobban.

Q. How do you know that fact?

A. I have seen it in the record.

Q. Where?

A. In the recorder's office in Missoula County.

Q. What did you say you saw in the records in the office of the Clerk and Recorder of Missoula County.

A. Wherein T. A. Price and wife had transferred to R. M. Cobban, a description of land which I cannot recall at this time.

Q. Do you mean to say that T. A. Price took up a claim? A. I do not.

(Testimony of Chauncey L. Griswold.)

Q. You mean to say that Bessie M. Price took up a claim, do you? A. Yes, sir.

Q. And that she conveyed her land to Mr. Cobban?

A. Yes, sir.

Q. From that you state that the facts and circumstances in connection with that entry, as stated to you by your assistants was the same as the facts and circumstance connected with the Stewart case, except Stewart was to retain the land.

A. I deny the fact of having stated to counsel on the other side that such was the fact, and I want to have that expressly understood, that I did not say so.

Q. Go on with the next then.

A. The next is J. H. Staley. He was a nephew of mine, residing at the present time at a place called Linden in the State of Indiana. He took up a claim for the express purpose of making a hundred dollars over and above his expenses.

Q. What do you know about his entry?

A. I am as well acquainted with the land as I am with this room, and did at the time and place make arrangements with Mr. Cobban, for him to furnish money for the final proof and all the expenses, and to pay Mr. Staley, who is my nephew a hundred dollars over and above that.

Q. Where was this arrangement made?

A. In Mr. Cobban's office in the city of Missoula.

Q. When was this with reference to the time that you entered into this contract?

(Testimony of Chauncey L. Griswold.)

A. My recollection is that this particular location wasn't made, or final proof made, until the year 1900, in the spring.

Q. Just go on, I wasn't asking this. I was asking you when it was that you had this conversation with Mr. Cobban in regard to this entry.

A. I was along prior to the time that Mr. Staley made his application to purchase.

Q. Which would be along about March or April of 1900?

A. I wouldn't be sure about that.

Q. You were still working for Mr. Cobban?

A. I was, yes, sir, in a way, I was doing work for Mr. Cobban. It was along during the middle or perhaps the latter part of 1900.

Q. And under the contract which you have spoken of, the claim was taken up—and the agreement was entered into a few days preceding?

A. I understand that the contract had been arranged at that time.

Q. And still, as you say, you were working under that contract?

A. I don't say that, because if my recollection is right, about that, Mr. Cobban told me he couldn't transfer that land at that time to Mr. Clark but would furnish the money to defray the expenses of acquiring the land and give Mr. Staley a hundred dollars over and above his expenses, but that I was to receive no commissions.

(Testimony of Chauncey L. Griswold.)

Q. This was about the time final proof was made, you say.

A. No, it was prior to the time of making final proof. Mr. Cobban, at the time of filing, and the time the examination was made by Mr. Staley, myself and Mr. Bryan went up to look at the lands, and I went as far as Clearwater, and I couldn't go on to the land myself, and so I sent Mr. Bryan up with Mr. Staley, and then we returned to Missoula. Mr. Cobban at that time was in California, but I did make arrangements with Mr. Dinsmore, who was Mr. Cobban's partner, to defray the expenses of Mr. Staley in getting his location, so that he could take up the land and as soon as Mr. Cobban returned from California, it was completed.

Q. So that talk was had, whenever it was, after Mr. Cobban had returned to California?

A. Yes, sir; after Mr. Cobban had returned from California.

By Mr. MAYNARD.—I desire to say in regard to this matter, and I desire to announce to the Examiner, and to counsel on the other side, as I have heretofore stated to them, and as appears in the record, that under the instructions of the Department of the Interior and in obeyance to their commands, I shall ask, when I have finished taking the testimony of the witnesses that we have here in connection with the entrymen and entrywomen, that are named in the bill of complaint—I shall then say that the Government's case is closed. That there has come to my knowedge within the last few

(Testimony of Chauncey L. Griswold.)

days, as I have previously stated to counsel for the defense the fact that a large number of entrymen and entrywomen, who made their entries, as the Government claims, under identically the same conditions as those that are named in the bill of complaint, namely, that they made the entries, solely by reason of a prior agreement which had been made between them and Mr. Cobban, by which, for hire, and for the sum of one hundred dollars and their expenses, to be paid by Mr. Cobban, they were to take up lands, in their own name, but or his use and benefit, and that they did so; and that the witness now on the stand, has named some of them—he has others, and I will produce many others, and that I shall apply to the Court, at the first opportunity, in behalf of the Government, for leave to amend the bill of complaint in the case, by adding and including the entrymen and entrywomen, whose names I shall then furnish the court, who, the Government will claim, are on all fours with these that are named in the bill of complaint.

I shall renew at the close of the case, the request that I have previously made to counsel, that they stipulate that the bill may be so amended, but they having previously refused, and assuming that they will continue to refuse, I have no other course, in obedience to the instructions to the department of justice at Washington, than to apply to the Court.

And I desire to say further, that in any event, and if for any reason the Court should refuse to grant the

(Testimony of Chauncey L. Griswold.)

Government's request, to amend the present bill of complaint, that I shall then immediately thereafter prepare a bill of complaint, which will be filed, including all the entrymen and entrywomen, who have taken up claims and made fraudulent entries under the Stone and Timber Act, but we did hope that counsel could see that there would be, if this course is taken, the consumption of a lot of unnecessary time, and will necessitate the going over of many of the facts that appear in this case, and I will say, in closing the case, to-morrow, that I shall make an application to the court, for leave to amend the bill as I have above indicated and shall also make, at the same time, a motion for an extension of the time, within which to take the testimony required to meet the allegations of the bill, as amended, for the reason already stated.

By the EXAMINER.—We will adjourn until to-morrow, March 29th, at ten o'clock A. M.

HENRY N. BLAKE,
Examiner in Chancery.

Saturday, March 29th, 1902, 10 A. M.

Thereupon the cross-examination of the witness, C. L. GRISWOLD was resumed by Mr. Bickford.

Q. The last person you testified concerning was Jasper D. Seeley, and the next person on the list is Herman H. Spiker, what do you know about Herman Spiker's entry?

A. I know that Spiker did take up a claim in the

(Testimony of Chauncey L. Griswold.)

same section that Mr. Seeley did, made final proof, and did soon after making final proof transfer to R. M. Cobban.

Q. Did you ever see the deed from Spiker to R. M. Cobban?

A. Could not say that I did.

Q. Did you ever see anything that purported to be a deed from Herman H. Spiker to R. M. Cobban?

A. I never did; the only reason I say that is because Mr. Cobban allowed me a commission on the land.

Q. How did he happen to allow on a commission on the land if you did not select it yourself?

A. Simply because under the terms and conditions of our contract of the 22d of May, 1899.

Q. Well, what about the terms of the contract of May 22d, 1899?

A. Wherein Mr. Cobban was to allow me five cents a thousand for all timber he could acquire on the Blackfoot.

Q. But you had nothing to do with the acquiring of this timber at all?

A. I would not say I did not. I believe I did have some talk with Mr. Spiker, and if my recollection serves me correctly I did go with Mr. Spiker to Mr. Cobban's office in the City of Missoula.

Q. Didn't you say only a moment ago that all you knew about it was that Spiker had made an entry, had made his final proof and had transferred to Mr. Cobban?

A. Yes, sir, I believe I did say so, but since saying

(Testimony of Chauncey L. Griswold.)

that I have thought of this thing and believe to the best of my recollection that I did go to Mr. Cobban's office.

Q. And for going with Mr. Spiker to Mr. Cobban's office you received five cents a thousand for the timber upon his land? A. I surely did.

Q. You knew nothing about the final proof and knew nothing about any agreement or contract upon the part of Spiker to sell, prior to his making final proof? A. I did not, no, sir.

Q. Why did you say in answer to the question propounded to you by counsel on yesterday that Spiker was one of the men who was in a similar situation to Mr. Stewart who was upon the stand a day or two since, with the exception that Stewart retained the land?

A. Because he took it up purely for speculative purposes. I know Mr. Spiker, he is a workingman.

Q. From the fact that he is a workingman you conclude he could not do anything, only take up the land for speculative purposes?

A. I do not see what he would want with the land only for speculative purposes.

Q. That is the reason why you swore he took up the land under the same situation that Mr. Stewart did, except that Mr. Stewart retained the land and Spiker didn't?

A. I do not know that I have sworn that way, but I would say the material facts are absolutely true, that

(Testimony of Chauncey L. Griswold.)

he did take it up for speculative purposes and for nothing else, and as soon as he completed his claim he left the country and has gone I do not know where.

Q. Then when a man takes up a timber and stone claim it is necessary for him to remain in the country thereafter? A. I did not say that.

Q. Do you know of any agreement or contract upon the part of Spiker to sell to anybody either before or after he made final proof?

A. I do not know of any agreement or contract wherein Spiker was to sell to anybody, or any person, but it was generally understood.

Q. That is not answer to my question, I asked you if you did not know, and if you do not know I want you to say so, or if you do know I want you to say so. Do you or do you not know that Spiker had a bargain or agreement to sell to any person either at the time when he made his entry or at the time when he made his final proof?

A. I do not know that he did or did not.

Mr. MAYNARD.—I wish you would keep in mind these names of these persons as they are passed by in review by my friend the Judge, because I desire to ask you except where I forget it or overlook it, the source of your information; of course the Government claims that you do not have to have a personal knowledge or whether it was gained from those in your employ or those that were in the employ of Cobban, or those where Cobban himself had told you, or from some other

(Testimony of Chauncey L. Griswold.)

sources of information; that is what I intended to ask you in the beginning when I formulated the Stewart question that counsel have so repeatedly referred to.

Mr. BICKFORD.—We now move to strike out the statement of the counsel as being an admonition given to the witness when upon the witness stand with reference to the subject matter of his testimony, for the reason that the same is improper and should not have been given during the progress of the cross-examination of the witness.

Q. We next strike the entry of Louis A. Wells. In what respect did the entry of Louis A. Wells resemble that of Alfred Stewart? A. Not in the least.

Q. Not in any way? A. No, sir.

Q. Then you are mistaken when you said that the Louis A. Wells entry resembled that of Mr. Stewart?

A. I did not intend to swear to that; if I did swear that these claims were in any way or manner identical, or the taking them up were in any way similar to the claim of Mr. Stewart.

Q. How did you happen to swear then that they were taken up under similar conditions?

A. Because, if you will see those names are checked off on the list that I knew nothing about.

Q. How did you happen to swear that the entry of Lizzie A. Wells was taken up under the same conditions as the entry of Stewart?

A. I did not so intend to swear.

Q. You did swear that way on yesterday?

(Testimony of Chauncey L. Griswold.)

A. I did not intend to, because the list shows itself that the name Louis A. Wells and Lizzie A. Wells are checked off from the list.

Q. What do you know about the entry of William M. Zander?

A. My recollection of that claim of William Zander's—

Q. I want to know what you know concerning the claim of William M. Zander, not what your recollection is, what you know?

A. What I know is this: That Mr. Zander made that location to the best of my knowledge in right north of Ovando and Mr. Cobban sent me in there to look this land over prior to the time when Mr. Zander made final proof.

Q. Is that all you know concerning the entry of William M. Zander? A. Yes, sir.

Q. There is nothing else you know concerning the entry of Zander concerning any contract or agreement for the sale having been made prior to final proof?

A. Nothing further than Mr. Cobban has paid me five cents a thousand for the timber on this location.

Q. Now, I will ask you to state how it happens that you testified that Mr. William M. Zanders had made his entry in the same way and under the same circumstances and conditions as the entry of Alfred Stewart had been made?

A. For the simple reason that Mr. Cobban sent me

(Testimony of Chauncey L. Griswold.)

in there to examine the land prior to the time he made his final proof.

Q. Then, you are willing to presume all the rest of it? A. Yes, sir.

Q. You presumed all the rest of it?

A. Yes, sir.

Q. As a matter of fact you know nothing concerning the entry of William Zander that would lead you to believe the entry was improperly made?

A. I do not know of any facts I could swear to that the entry was improperly made, but to the best of my knowledge and belief it was.

Q. Now, I will ask you concerning the entry of Anna A. Rowe; what do you know concerning Anna Rowe's entry that would lead you to mention that as being an entry made under similar circumstances to the entry of Alfred Stewart?

A. A man that was in my employ, a Mr. Jemison, told me he had located Mrs. Anna Rowe on a piece of land under an agreement he had with Mr. Cobban; Mrs. Rowe only took up forty acres.

Q. Do you know of any agreement or contract upon the part of Anna Rowe to sell this land either at the time she made her sworn statement or at the time when she made final proof? A. I do not.

Q. Why, then, did you mention this entry as one which was similar so far as the material circumstances were concerned to that of Alfred Stewart, in which you

(Testimony of Chauncey L. Griswold.)

testified that there had been a contract or agreement made prior to the time when the filing was made by Stewart for the sale of the land.

A. For the simple reason that this woman was located, so I was informed by Mr. Jemison, under an agreement materially the same as the agreement under which he had worked for me prior to that time.

Q. Now, as a matter of fact, did Jemison ever tell you that there was an agreement with reference to the entry of Anna Rowe? A. He never did.

Q. Then you just presumed that there was an agreement instead of knowing that there was an agreement?

A. Yes, sir.

Q. You know of no other fact or circumstance connected with this entry which would lead you to believe that it was similar to the entry of Alfred Stewart, do you? A. No, sir.

Q. Passing this to the entry of George L. Ramsay and wife what do you know concerning the entry of George L. Ramsay and wife?

Mr. MAYNARD.—I do not want to have the witness misled and testify to what he does not intend to, in regard to your answer I would simply suggest or point out that wherever you do know of the fact of a conveyance to Cobban by these people—

The EXAMINER.—You can bring out everything of that kind.

A. The names of George L. Ramsay and wife on

(Testimony of Chauncey L. Griswold.)

that slip of paper are crossed out; I did not intend to testify in regard to them.

Q. You mentioned the name of George L. Ramsay and wife yesterday when you read the list of names?

A. Yes, sir, checked it off.

Q. Did you check it off? A. I guess so.

Q. Will you look at the list now and say whether it is checked off at this time or not?

A. It should have been; if I did not check it off it was an oversight.

Q. You swore that it was checked off; would you swear now it was not?

A. I did not check it off because my recollection of Ramsay and wife is where scrip was to be used.

Q. Isn't it a fact that a great number of these people made scrip instead of timber and stone entries?

A. No, sir, it is not.

Q. As a matter of fact, did George L. Ramsay and wife make a timber and stone entry at all?

A. I have no way of knowing.

Q. Then how did it happen that you testified yesterday that George L. Ramsay and wife made a timber and stone entry under similar circumstances as those surrounding the timber and stone entry of Alfred Stewart, except that there was to be no sale of the land but the sale of the timber contained thereon?

Mr. MAYNARD.—I deny that the record so speaks, I claim that the record affirmatively shows that yester-

(Testimony of Chauncey L. Griswold.)

day that Mr. Griswold did not have any connection with the Ramsay matter; said it was a mistake, that was included in his statement, and there was no such statement as now made by counsel; he so distinctly stated at the time.

A. The record of yesterday will show that I took this slip of paper and went over the names, the ones I was familiar with, the names of the ones I was familiar with—

Q. Now, will you please answer my question? Then, how did it happen that you testified yesterday that George L. Ramsay and wife made timber and stone entries under the same circumstances as those surrounding the timber and stone entry of Alfred Stewart, except that there was to be no sale of the land but a sale of the timber contained thereon?

A. I do not think I did, I have no recollection of it.

Q. Have you any knowledge at the present time concerning the timber and stone entry of George L. Ramsay? A. I have not.

Q. Do you know of any contract or agreement whereby George L. Ramsay made a timber and stone entry under any arrangement or agreement with R. M. Cobban by which the title to the land was to be conveyed to R. M. Cobban after final proof had been made?

A. I do not.

Q. The next entry is that of John Ringuette: What fact or circumstances do you know in connection with

(Testimony of Chauncey L. Griswold.)

the entry of this man, or the timber and stone entry of your own knowledge?

A. I know of the fact that Mr. Ringuette's brother Peter locating on a piece of land; know of the fact that he was not a naturalized citizen and he could not make final proof; he had to give up his rights to his brother who finally completed final proof and transferred the land to Mr. R. M. Cobban by warranty deed and Mr. John B. Catlin paid the money into the United States Land Office in Missoula for Mr. Ringuette.

Q. Do you know this of your own knowledge or is it mere rumor?

A. It is no rumor at all, they have both told me so.

Q. They told you so, or it mere rumor or something of that kind? A. Didn't so understand it.

Q. Do you know anything except what they told you?

A. Further than the fact that the land had been transferred to R. M. Cobban?

Q. Do you know of any contract or agreement by which the man whose name I have read here to you was to convey this land to Mr. Cobban, other than what you have stated concerning this statement before the time of his making his final proof?

A. Nothing further than the fact at the time and place where Mr. Catlin paid the money into the land office to Mr. Hershey, that John Ringuette did right

(Testimony of Chauncey L. Griswold.)

then and there say, "I want my money right now as you agreed to give it to me."

Q. Were you present at that time?

A. No, sir.

Q. Then you did not hear it? A. No, sir.

Q. Then you are testifying concerning what somebody told you? A. Yes, sir, simply hearsay.

Q. Altogether hearsay? A. Yes, sir.

Q. Why, then, on yesterday, did you testify that the circumstances surrounding the entry of John Ringuette were similar to the circumstances surrounding the entry of Alfred Stewart, when as a matter of fact you knew nothing concerning the entry of Ringuette of your own knowledge except what you have here stated?

A. I do; I did not know—don't know how I would get the knowledge but only what I seen in the record.

Q. Did you see the record of the deed to Ringuette?

A. I have.

Q. Did you see the testimony?

A. I would say so; I did.

Q. Then you know nothing about it except the fact that there is a deed on record concerning the land or conveying the land from Ringuette to R. M. Cobban?

A. Yes, sir.

Q. Do you know whether that was the same land which was entered under his timber and stone claim or not?

A. I know that it was.

Q. Do you remember the land? A. I do not.

Q. Can you give a description of it?

(Testimony of Chauncey L. Griswold.)

A. I could not give you an exact description, it is in between Cammas Prairie and the Blackfoot river on the mountain there.

Q. Do you know whether the deed conveyed that land?

A. I do.

Q. Have you a remembrance of ever reading the deed as to the tract of land?

A. I said I have never seen the deed.

Q. Can you say from reading the record that the land mentioned in the record was the land that you have mentioned as being between Cammas Prairie and some other place? A. I am very well satisfied it is.

Q. Did you ever read the record so as to know that that was the land conveyed? A. I have.

Q. Will you now swear that the deed which is on record conveyed the land that was entered as the timber and stone claim. A. I would swear to that fact.

Q. Not because you remember it, but because you feel that you must swear to that fact?

A. No, not in the least. I am not swearing to anything that I feel I must swear to; I don't want to swear to anything but what I absolutely know.

Q. Then you feel different about it now than you did when you were swearing to final proof?

A. I did not swear to anything in making final proof but what I thought under the terms and conditions of my contract I had to swear to.

Q. Now, you don't have to swear to anything?

(Testimony of Chauncey L. Griswold.)

A. I do not have to swear to anything only what is absolutely true.

Q. Then when you were giving your testimony upon final proof you felt that you had to swear to things that were not true?

A. It is the custom of the country; it has been done in the Blackfoot river country since the law was enacted.

Q. Since 1872? A. Or 1873.

Q. You swore that way because it was the custom of the country in these final proofs mentioned?

A. I did not do it on one particular claim for the dollars and cents that was in it, but combined with all the rest of them it amounted to a good many hundred dollars to me.

Q. Now, I will ask you to state whether there is any other fact or circumstances connected with the entry of John Ringuette that you can testify to here which led you to testify as you did as to the resemblance of this entry to that of Alfred Stewart.

A. Other than the simple fact that the land was transferred to Mr. Cobban and the money was paid by Mr. Cobban or his agent and immediately after the final proof was made the land was transferred to Mr. R. M. Cobban, or conveyed to Mr. Cobban.

Q. Now, will you please answer my question?

A. Nothing further than what I have stated.

Q. You know of no other facts, then, except those you have stated? A. I do not.

Q. Do you know of any fact of you own knowledge?

(Testimony of Chauncey L. Griswold.)

A. Only what I have stated.

Q. The next entry is that of Samuel Rowe. What do you know concerning the entry of Samuel Rowe of your own knowledge?

A. I know nothing of that entry of my own knowledge.

Q. Why, then, on yesterday did you testify that the entry of Samuel Rowe was made under the same circumstances as the entry of Alfred Stewart except that Alfred Stewart was to retain his land and Samuel Rowe was not?

A. Well, the only thing I know about that is that the land has been transferred from Mr. Rowe to Mr. Cobban.

Q. You know this of you own knowledge?

A. I am satisfied of it.

Q. Do you know this of your own knowledge?

A. I do.

Q. What fact or circumstances do you know or can you testify to of your own knowledge with reference to the transfer of the land of this man Rowe?

A. Nothing only what the records of Missoula County show.

Q. You never say the deed? A. I never did.

Q. Don't know the land that is transferred?

A. No, sir; nothing about it.

Q. Can you give us a description of the land transferred of your own knowledge? A. No, sir; I cannot.

Q. Then, you know nothing of your own knowledge concerning the transfer from Rowe to R. M. Cobban, or of the land that was transferred in the deed?

A. To the best of my recollection—

(Testimony of Chauncey L. Griswold.)

Q. No, I say of your own knowledge?

A. No, I cannot. Now can I go on?

Q. No; you cannot give your recollection; under the question I asked you I want to know what facts you know yourself with reference to this entry that caused you to testify that the entry was made in the same way or under the same circumstances as the entry of Alfred Stewart; in which case you testified that you overheard the conversation between Alfred Stewart, Mr. R. M. Cobban and Mr. Jackaways in which Alfred Stewart agreed to enter the land and agreed to sell the land to Mr. Cobban after final proof; now what facts are there in this Rowe entry which correspond to that?

A. I never swore to anything of the kind.

Q. I asked you what facts there are in this entry which correspond to the statement which I had made to you with reference to the Stewart entry within your own knowledge?

Mr. MAYNARD.—I object to that because Mr. Griswold has never sworn to anything of the kind.

Mr. BICKFORD.—The record will show.

Mr. MAYNARD.—He has no right to assume such a hypothetical case and then proceed on that theory when he had disavowed and I on the part of the Government have disavowed it myself.

Q. What facts are there within your own knowledge?

A. Nothing further than that the land has been transferred to Mr. R. M. Cobban.

(Testimony of Chauncey L. Griswold.)

Q. What about the entry of Merrit A. Robinson and wife; what fact do you know connected with the entry of Merrit A. Robinson and wife?

A. I don't know anything about the facts connected with that case at all.

Q. Why, then, did you testify that Merrit A. Robinson and wife made an entry under similar circumstances as that of Alfred Stewart?

A. I have no recollection of doing it.

Q. If you did do it you want to take it back?

A. Yes, sir, I do. I will take it back if I did do it.

Q. Do you know of any fact of your own knowledge in connection with this entry of Merrit A. Robinson and wife? A. I do not.

Q. Do you know that they ever made a timber and stone entry? A. I do; I am well satisfied they did.

Q. Do you know, I say, that they made a timber and stone entry?

A. I do not; I dont' know the people at all.

Q. Don't know the people and don't know that they made a timber and stone entry?

A. I know they transferred to R. M. Cobban.

Q. You don't know how they obtained title to the land they transferred to Mr. Cobban at all? A. I do not.

Q. Do you know the time when they transferred to Cobban? A. I do not.

Q. Do you know the circumstances connected with the transfer to Cobban? A. I do not.

Q. What have you to say with reference to Melvin R.

(Testimony of Chauncey L. Griswold.)

Stairs and wife, what fact is there within you own knowledge as to their entry that led you to testify that they had made an entry under similar circumstances to those surrounding the entry of Alfred Stewart?

A. I did not so testify.

Q. And at this time, you say, they did not make an entry under similar circumstances to those surrounding the entry of Albert Stewart? A. I do.

Q. The next is John G. Smith and wife; what fact is there within your own knowledge that you can testify to with reference to John G. Smith?

A. There is nothing.

Q. Absolutely nothing? A. Yes, sir.

Q. Then, why did you testify on yesterday that they had made an entry under similar circumstances to those surrounding the entry of Alfred Stewart?

A. For the simple reason that the Smiths were located in a territory from which I was barred by Mr. Morris, for whom Mr. Cobban informed me himself, he was working under the same conditions I was working; and that the land was subsequently transferred to Mr. Cobban.

Q. Do you know that the land was subsequently transferred to Mr. Cobban? A. I do.

Q. Did you see the deed? A. No, sir.

Q. Did you see anything that transpired at the time of the transfer of this land? A. I did not.

Q. Then you want to be understood to say that every transfer of land to Mr. Cobban was made through a timber and stone entry?

(Testimony of Chauncey L. Griswold.)

A. I did not so testify; I did not wish to state so.

Q. What fact was there within your own knowledge in connection with the Smith entry which led you to testify as you did on yesterday with reference to it?

A. Nothing further than what I have stated.

Q. Why did you read it on the list when the list was handed to you to be read when there was no information within your own knowledge with reference to this entry?

A. I testified, and the record will bear me out in so doing, I read that list and picked out the names I could swear to positively and others I did not.

Q. You now say there is no fact within your own knowledge in connection with the Smith entry which would lead you to believe that this entry was made fraudulently? A. Except as I have already stated.

Q. Is there any fact within your own knowledge which would lead you to believe or lead you to swear that this was an illegal entry or an entry illegally made?

A. No; there was no fact within my own knowledge?

Q. The next entry mentioned here is Edward F. Tippett and wife; do you know that Edward F. Tippett and wife ever made a timber and stone entry? A. I do not.

Q. Do you know of any fact or circumstance within your own knowledge that would lead you to believe that they had ever made a timber and stone entry at all?

A. There is.

Q. What fact is there within you own knowledge with reference to that?

A. They owned a hundred and sixty acres of land up

(Testimony of Chauncey L. Griswold.)

in that country that could not be taken up under any other laws governing the public domain than this, and the land was taken up and final proof was made, to the best of my knowledge, long prior to the time Mr. Cobban came into the country.

Q. You don't know whether this land was taken up under the Stone and Timber Act or not, do you?

A. Their names were checked off on this list.

Q. I asked you for facts within your own knowledge?

A. Yes, sir.

Q. As a matter of fact, you don't know whether it was taken up under the Stone and Timber Act or some other act? A. I do not.

Q. Then, why did you testify that the entry of Edward F. Tippett and wife was made under similar circumstances to that of Alfred Stewart, and why did you read off of this list and check the name of Edward Tippett and wife?

Mr. MAYNARD.—In behalf of the Government I protest against the willful and unfair way that has been adopted by counsel yesterday afternoon and this forenoon in the form of questions they are putting to Mr. Griswold as similar to the last question and the one that is now submitted to the witness; it is a willful and intentional form for the purpose of making Mr. Griswold testify on a question that he has time and time again stated he did not swear to, and if he did answer the question it was in the belief that it would appear upon the record; we furnished

(Testimony of Chauncey L. Griswold.)

a list simply of those persons that appear from the records in Missoula County to have conveyed to Mr. Cobban and that was all the list was for; and then he stated he had checked off or intended to check off all of the names that he knew anything about, and the balance were those he had reason to believe from his own knowledge, or from knowledge gained from Mr. Cobban or his employees or from those that were working for Mr. Griswold, or from other sources had made entries similar to the Stewart entry, and I protest, when that has been stated time and time again against counsel continuing in this misleading course; and I appeal to the Examiner for the protection of the witness.

The EXAMINER.—As I have stated several times, the Court that reviews these matters scrutinizes very carefully all questions put to the witnesses, and all answers given by the witnesses and weighs the thing impartially.

A. Why did I check the name of Edward Tippett and wife? I checked it simply because I am well satisfied that the claim of Tippett and wife were taken long prior to the time that Mr. Cobban came into the country.

Q. Do you know anything concerning this entry of your own knowledge? A. I do not.

Q. The next is Walter W. Wilder and wife; what do you know of your own knowledge concerning that entry?

A. Don't know anything only that he was located in a country I was barred from through the work of Mr. Morris.

(Testimony of Chauncey L. Griswold.)

Q. You have no knowledge, then, as to the entry of W. W. Wilder and wife?

A. No, sir.

Q. How was it then that you testified that Wilder's entry was made under similar circumstances to those of Alfred Stewart? A. I was so led to believe.

Q. Then it was not from your own knowledge or anything with your own scope of work that led you to believe that?

A. No, sir, and I have not so testified.

Q. You know nothing then concerning this entry of your own knowledge at all? A. No, sir.

Q. What about the entry of John White and wife; what facts do you know concerning the entry of John White and wife?

A. I would not like to say whether I know anything about that or not; I am under the impression I do.

Q. I am asking you what knowledge you have of your own concerning the entry of John White and wife?

A. Well, I would not like to say, is the only answer I will give you?

Mr. BICKFORD.—I will ask that the Examiner request the witness to answer.

The EXAMINER.—You must answer one way or the other.

A. If I knew the location Mr. White was on, I could answer this understandingly; as it is now I cannot tell, my recollection is that there was one White located in

(Testimony of Chauncey L. Griswold.)

section 24, township 15 north, of range 15 west, and was located by Mr. Cobban personally, and if I knew whether that was the White or not I would answer the question.

Q. Now, will you answer the question? What knowledge have you of your own concerning the entry of John White and wife?

Mr. MAYNARD.—I think counsel on the other side has before him a description of the land that was entered by Mr. White, and the witness says if he knew the description that that would aid him, he then would be able to identify the White; I ask that counsel produce the description of the land upon which he is interrogating the witness.

Mr. BICKFORD.—Will you direct him to answer the question?

The EXAMINER.—I think he has answered it. Have you answered it as far as you could?

A. I have answered it as far as I can without consulting memoranda further.

Q. Now, I ask what fact there is within your own knowledge with reference to the entry of Mr. White, and that is all I want you to answer, what fact there is within your own knowledge?

Mr. MAYNARD.—I submit if your Honor please, that the witness has answered it to the best of his knowledge; it seems that there is more than one White; that there are two Whites, and he don't know which one it

(Testimony of Chauncey L. Griswold.)

is, and he is unable to testify unless he has the description; if he had a description then he would know how to distinguish the Whites; then when he is in doubt that way why should he be asked any further in regard to the matter when it is clear he cannot testify understandingly.

A. I could not say anything further than what I have said.

Q. Is there any fact within your own knowledge with reference to the entry of John White and wife?

A. I would not say so.

Q. Is there any fact within your own knowledge with reference to the entry of John White and wife?

A. I could not say.

Mr. BICKFORD.—We submit he ought to be compelled to answer; if he knows nothing he should say so; if he knows anything he ought to tell what it is; he knows whether there is anything within his own knowl- or not. We submit it is a fair question to be propounded to the witness.

Mr. MAYNARD.—He cannot say he has any other knowledge than what he has testified to.

The EXAMINER.—I think he has answered it as far as he is able.

Q. Nothing further then?

A. Yes, sir, if I have a description of the land then I could answer understandingly.

Q. Do you know as a matter of fact that Mr. Cobban located or took Mr. John White and wife upon a claim?

(Testimony of Chauncey L. Griswold.)

A. I do not.

Q. Do you know that John White and his wife proved up on a claim?

A. I am well satisfied that one White did.

Q. Do you know that they did, John White and wife?

A. I do not.

Q. Do you know that they ever made a timber and stone entry?

A. I know that there was one White made a timber and stone entry.

Q. Do you know that John White and wife made a timber and stone entry? A. I do not.

Q. Do you know that John White and his wife ever transferred any claim of theirs to Mr. R. M. Cobban to your knowledge?

A. I know there was one White, whether his name was John White and wife I do not know.

Q. Now, I will ask you to state why it was that you testified on yesterday that John White and wife made a timber and stone entry under similar circumstances surrounding their entry as surrounded that of Alfred Stewart; I want you to testify now only what you know of your own knowledge concerning it?

A. Because of this, Mr. Cobban went on the land in township 15 north, of range 15 west, and selected several claims in sections 24, 22 and 26, Mr. Cobban put a man on by the name of Walsh, I believe, who before making final proof went insane, and is now in Warm Springs to the best of my knowledge. And he did after-

(Testimony of Chauncey L. Griswold.)

wards bring Mr. White up there and put him on that same location, whether it is John White and wife I do not know.

Q. Now, will you state how it happened that you testified on yesterday that this White entry was made under similar circumstances to that of Alfred Stewart?

A. Well, for the simple reason I have no knowledge of any other White, whether his name is John White or not I could not say.

Q. You don't know then whether John White ever made a timber and stone entry or not?

A. The records of the Missoula land office will show he did.

Q. Did you look at the records to see whether he did or not? A. I did not.

Q. Then you testified here not from your own knowledge when you testified that John White made a timber and stone entry?

A. I am well satisfied that one White did, whether it was John White or not I could not say.

Q. Now, I am asking you the question as to whether you testified from your own knowledge or not when you gave testimony a moment ago?

A. I testified from the best of my knowledge and belief, that is all I can say.

Q. Then you testified not to fact but from opinions and deductions?

A. Opinions substantiated by facts.

(Testimony of Chauncey L. Griswold.)

Q. You never looked at the land office records to see whether this was substantiated by facts or not?

A. No, sir.

Q. You never knew of John White making an entry?

A. I knew of one White making an entry.

Q. I asked you concerning John White?

A. I could not say whether it was John White or Pete White.

Q. Now, you say you never looked at the record; that you don't know John White from Pete White; what fact do you of your own knowledge concerning the entry of John White?

A. I could not say that I know anything of my own knowledge other than what I have already stated.

Q. What do you know concerning the entry of William O. Warner of your own knowledge?

A. I know a good deal.

Q. Will you kindly state to the court now what fact you know of your own knowledge concerning the entry of William O. Warner, if he ever made a timber and stone entry at all.

A. The list that was given to me yesterday shows that I crossed the name of William O. Warner off, to the best of my recollection, for the simple reason that Mr. Warner did not at that time make a selection under the timber and stone laws, but did take a homestead entry and fraudulently completed proof on it, and did afterwards transfer the land to Mr. R. M. Cobban; not that Mr. Cobban was in any way connected with the

(Testimony of Chauncey L. Griswold.)

fraudulent transaction of the completion of proof, nor possibly in the purchase of the timber.

Q. What other fact do you know of your own knowledge concerning the entry of William O. Warner?

A. I don't understand the question.

Q. What other facts do you know of your own knowledge concerning the entry of William O. Warner; referring to his timber and stone entry of William O. Warner?

A. I know he did not make any entry under the timber and stone law.

Q. You know he made no entry under the timber and stone laws?

A. I am not positive but I am well satisfied he never did.

Q. How was it then that you testified on yesterday that William O. Warner made an entry under the timber and stone laws under similar circumstances to those surrounding the entry of Mr. Alfred Stewart, except that Alfred Stewart was to retain the land and sell the timber? A. I did not so testify.

Q. Then you know of no fact connected with the Warner entry under the Timber and Stone Act that you can testify to here at this time? A. No, sir.

Q. What do you know of your own knowledge concerning the entry of Charles M. Young?

A. I know nothing about that further than that Mr. Young made an entry under the timber and stone law and did subsequently transfer to R. M. Cobban.

(Testimony of Chauncey L. Griswold.)

Q. How do you know these facts?

A. From my personal knowledge substantiated by evidence, books and records.

Q. Did you ever look at the record with reference to the entry of Young?

A. Never did, no, sir.

Q. Then why do you say that your testimony is substantiated by the record?

A. Because I know Mr. Young; I am satisfied that the records of Missoula County will show that Mr. Young did take up a timber and stone claim and subsequently transferred to R. M. Cobban.

Q. Then you do not pretend to say that you have looked at the records of Missoula County?

A. Never did.

Q. Did you ever look at the records with reference to the transfer of any land to Mr. Cobban by this person? A. Never.

Q. Do you know of any timber and stone entry, any entry ever made by him being transferred to anyone?

A. I am well satisfied there was.

Q. Do you know of any fact connected with the entry of your own knowledge which led you to testify as you did on yesterday as to its close resemblance to that of Alfred Stewart?

A. If I so testified in regard to that claim of Charles M. Young, I would like to have the answer to the question withdrawn and would substitute there in place of

(Testimony of Chauncey L. Griswold.)

at that I don't know any facts connected with the entry of Charles Young.

Q. That is your answer?

A. Yes, sir, that is my answer.

Redirect Examination.

(By Mr. MAYNARD.)

Q. Now, Mr. Griswold, you may state again as to whether or not that list you have in your possession which you have been cross-examined upon by counsel for the defendant contains any other than a list of names of persons who entered land and thereafter conveyed the land to R. M. Cobban; all of these did so convey to Mr. Cobban as we understand it.

Mr. BICKFORD.—We object to the question first, for the reason that it is leading; next, for the reason that it is matter concerning which the witness has already testified in full; and third, because the witness has on to-day on cross-examination explained concerning the list.

A. Yes, sir.

Mr. MAYNARD.—This is done simply by way of re-examination for the purpose of having it clearly appear of record just exactly what the list is and what the witness has sworn to and if he was misled in any way to have that affirmatively appear and to correct the willful conduct and course that has been pursued by the defendant.

Q. Now, then, I will ask you, when that list first

(Testimony of Chauncey L. Griswold.)

list came in to your possession whether you did check or intended to check off the names of persons that you knew had not entered under the Stone and Timber Act or that you had no knowledge whatever about?

Mr. BICKFORD.—We object to this question, first, for the reason that it is leading; next, for the reason that it is matter concerning which the witness has already testified in full, and third, because the witness has on to day on cross-examination explained concerning the list.

A. I did, yes, sir; also the ones that had made their final proof prior to the 22d day of May, 1899, or to that time.

Q. With the remaining ones did you have any—did you do any more than to give the facts and circumstances as gathered from your own knowledge or from what Mr. Cobban had told you or those in his employ or from other sources of information which you regard as reliable, which led you to the belief that these entries had been made under circumstances substantially similar to the Stewart claim, with the exception that Stewart held his land?

Mr. BICKFORD.—We object to this question for the reason it is leading.

A. Yes, sir, that is a fact.

Q. And if the former question that was addressed by me to you was broader than what is now stated, whether or not you desired to have the answers that were made by you to that former question apply with

(Testimony of Chauncey L. Griswold.)

the exception of the modification as you have now modified it?

Mr. BICKFORD.—We object to this question for the reason that it is leading; something which has already been testified to by the witness on cross-examination and as being irrelevant and immaterial and not proper re-examination.

Q. And as you understood the former question to be?

Mr. BICKFORD.—We object to this question for the reason that it is leading; something which has already been testified to by the witness on cross-examination and as being irrelevant and immaterial and not proper re-examination.

A. I would say in regard to this list of names that all of the people have taken up land under the conditions similar to the condition under which I made locations for R. M. Cobban; I gathered this knowledge from what Mr. Cobban himself, men in his employ, men in my employ and people making locations in a great any instances, and from what facts I have gathered from the land office and the office of the recorder of deeds in the county of Missoula that I have examined.

Mr. BICKFORD.—Now, we move to strike out the answer of the witness as not being responsive to the question and as showing the testimony given by the witness concerning this land which he has identified to be irrelevant and immaterial, and hearsay, and as incompetent for any purpose.

(Testimony of Chauncey L. Griswold.)

Q. These are the sources of information which you have and from which you have given the testimony on the direct examination?

Mr. BICKFORD.—We object to that question for the reason that it is leading.

A. Yes, sir.

Q. And from these sources of information was the basis which led you to the opinion that the entries that you have testified to were similar to the entry of Stewart where a prior agreement existed in these cases.

Mr. BICKFORD.—W object to this question for the reason it is leading, and for the further reason that the witness has not so testified.

Q. Is that it, Mr. Griswold?

Mr. BICKFORD.—We object to this question for the reason that it is leading and for the further reason that the witness has not so testified.

Q. Is that it, Mr. Griswold?

Mr. BICKFORD.—We object to this question for the reason that it is leading and for the further reason that the witness has not so testified.

A. Yes, sir, that is a fact.

Q. Now, then, if there is any misunderstanding in regard to the Morris employment, to prevent any possibility of misunderstanding, I will ask you again was Morris working for Cobban under substantially the same conditions that you were working for him in locating these people?

(Testimony of Chauncey L. Griswold.)

Mr. BICKFORD.—We object to this question for the reason it is leading and is asking for a repetition of testimony already given by the witness.

A. Mr. Cobban himself told me.

Mr. BICKFORD.—We object to this as hearsay, this or anything else that Mr. Cobban told him.

A. That Mr. Morris was working for him out and around Cammas prairie and on Gold Creek under similar circumstances to what I was working for him, namely, locating timber, and did not want me to go into that territory, but I could have all the rest; Mr. Morris subsequently himself told me so, and at one time Mr. Cobban came to me at my place at Clearwater and wanted me to send a man to estimate timber on Cammas prairie, and at that time and place did mention some of these names as being people who had located on the description which he wanted my man to estimate. I did at that time and place employ Mr. E. R. Kilbourn to go there and estimate this timber, and when Mr. Kilbourn came back he mentioned many of the names on that list as being estimated for R. M. Cobban, and I paid Mr. Kilbourn fifty dollars for doing the work, of Mr. Cobban's money.

Mr. BICKFORD.—We move to strike out the answer of the witness because it is not responsive to the question, for the further reason that it is a mere repetition of the testimony heretofore given by the witness with

(Testimony of Chauncey L. Griswold.)

modifications; and for the further reason that it is irrelevant and immaterial.

Q. Then, you may state as to whether or not from all of these various sources from which you gained your information you believe that a prior agreement existed in those cases that you have particularly specified as in the cases of the entrymen and entrywomen named in the bill of complaint?

Mr. BICKFORD.—We object to this question for the reason that it calls for a conclusion of the witness; for the further reason that it is leading, for the further reason that it is irrelevant and immaterial, and for the further reason that it is based upon hearsay.

A. I have every reason to believe that a prior agreement did exist in a great many instances, from the simple reason that I know a great many of the people personally and know that they are not financially able to go on and complete the proof of one hundred and sixty acres of government timber or land.

Q. I wish you would name those persons from that list of whom you have that knowledge?

Mr. BICKFORD.—We object to this on the ground that it is a repetition of testimony heretofore given by the witness and for the further reason that it is irrelevant, immaterial and hearsay.

Mr. BICKFORD.—We submit that all of this was gone over, on yesterday; all of this testimony was stated by the witness on yesterday; it is a mere repetition and

(Testimony of Chauncey L. Griswold.)

simply lengthening the record to no good purpose whatever, the same question was asked that is now asked by counsel.

A. George L. Elliot and wife, Benjamin E. Helma, Matthew McDonald, John H. Olsen, John H. Staley, Winfield Dodd, Ambrose Martin. That is all I could testify knowingly in regard to their situation.

Q. I will ask you in regard to this Ringuette claim; as to whether or not the entry was originally made, that is the filing was made by his brother, and then when they came to make final proof in the case that it appeared that his brother was not a naturalized citizen of the United States and was not eligible to make the filing, and that thereupon his brother was substituted right off. Do you know anything about that?

Mr. BICKFORD.—We object to this question for the reason that it is leading.

A. Nothing but what I have heard, it is all hearsay.

Q. Who did you hear it from?

A. Why, several people told me about it, and I think I testified to that a short time ago that he did take it up and file on it.

Mr. BICKFORD.—We object to this because it is irrelevant, immaterial and hearsay.

A. When he came to make final proof they found that he was not a naturalized citizen and they rejected his application, and his brother did immediately take up the piece of ground and finally completed proof.

(Testimony of Chauncey L. Griswold.)

Mr. BICKFORD.—Now, we move to strike out the answer of the witness because it is all hearsay.

Q. You know then his brother filed on the same place?

A. Mr. Ringuette told me of these facts himself.

Mr. BICKFORD.—We move to strike out this answer of the witness as not responsive to any question and as hearsay.

Q. Mr. Griswold, please state if from the sources of information that you have already named, whether you believe and have good reason to believe that a further examination of the records will reveal a number of other entries that were made under the Stone and Timber Act in which by reason of prior agreement the entry was made in the interest of Mr. Cobban, and after final proof by reason of that agreement was conveyed to him?

Mr. BICKFORD.—We object to this question for the reason that it is leading, and as calling for a conclusion of the witness and as calling for hearsay testimony, and as calling for testimony of the witness concerning an examination subsequently to be made by the witness and as to what that examination would reveal if made, and because it is irrelevant and immaterial and not responsive to any issue in this case, and for the further reason that no fact can be stated by the witness which is now within his own knowledge.

A. I am thoroughly convinced that an examination of the records in the recorder's office of Missoula county

(Testimony of Chauncey L. Griswold.)

and Deer Lodge County, or which at that time was Deer Lodge County, would reveal the names of parties taking up lands under the Timber and Stone Act for and in the interest of R. M. Cobban that is not contained in the bill of complaint nor on this slip of paper.

C. L. GRISWOLD.

Subscribed and sworn to before me this 19th day of April, A. D. 1902.

HENRY N. BLAKE,
Examiner.

Saturday, March 29th, 1902, 2 P. M.

Hearing resumed pursuant to adjournment.

By the EXAMINER.—The following named persons were duly subpoenaed to appear as witnesses before the Examiner, and were unable to do so by reason of illness, to wit: Matilda Dodd, wife of Hiram Dodd, Mrs. Elizabeth E. Muchmore, wife of Oliver E. Muchmore, Mrs. Bell Bryan Evans, and Mrs. W. F. Hughes, Mrs. Daisy L. Chattin, Matilda Eddy, wife of William Eddy, Mrs. Martha M. J. Doney, and Mrs. Jennie Mize, wife of James Mize. Said persons were excused from attendance by the Examiner for that reason.

By Mr. MAYNARD.—With the understanding that they were to appear when they were able to do so, and testify as witnesses.

Thereupon Mr. GRISWOLD was recalled to the stand for further examination.

(Testimony of Chauncey L. Griswold.)

(By Mr. MAYNARD.)

Q. Counsel cross-examined you at considerable length in regard to the White entry, and you, at that time, were were unable to give a definite answer by reason of the fact that you didn't know which White he had reference to? A. Yes, sir.

Q. Since the noon recess, I will ask you if you have made an examination of your books and papers, or anything in your possession, by which you are now able to answer counsel's question more definitely than you were this morning? A. I am.

Q. What have you to say on that subject?

A. I will say that John H. White was located by Mr. R. M. Cobban on lands previously selected for a location by Mr. Cobban himself, and the particular descriptions of the land also. Said land being the east half of the northeast quarter, and the east half of the southwest quarter of section 22, township 15 north, range 15 west, and I here offer notice of advertisement.

By Mr. BICKFORD.—To all of which we object for the reason that it is irrelevant and immaterial, and not responsive to any issue in this case.

(Witness continuing.) Mr. White being one of the parties that came to my place at Clearwater in company with Mr. Cobban, as well as Mr. Pelky, Thomas Pelky, B. Frank Chattin, and others which I can name, if you so desire.

Q. And others that you could name?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir.

Q. Well, who are they?

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and not responsive to any issue in this case.

A. William Walsh.

Q. William Walsh?

A. William Walsh, yes, sir, and Henry C. Chattin, who located upon lands in section 26, township 15 north, range 15, west.

By Mr. BICKFORD.—Now, we move to strike out the answer of the witness upon the ground that it is irrelevant and immaterial and is not responsive to any issue raised by the pleadings in this case.

Q. Do you know of your own knowledge about the facts and circumstances of these locations that you refer to? A. I did and do, yes, sir.

Q. Did they afterwards convey to Mr. Cobban?

By Mr. BICKFORD.—We object to that as leading.

A. They did.

Q. They did, you say? A. Yes, sir.

Q. Can you say as to whether or not, a prior agreement existed with reference to these locations between these parties and Mr. Cobban?

By Mr. BICKFORD.—We object to that for the reason that it is leading.

A. I cannot.

Q. Was there a prior agreement?

(Testimony of Chauncey L. Griswold.)

A. Yes, sir, I was so informed.

Q. There was one question that I overlooked in regard to the Mrs. Ehle entry. You know the woman that I refer to?

A. Yes, sir, a daughter of Mr. Reeve.

Q. I forgot to ask you the question as to whether or not, subsequently you had a conversation with Mrs. Ehle, on the streets of Missoula?

A. I did, yes, sir.

Q. And if you then asked her anything in regard to her having received money from Mr. Cobban?

By Mr. BICKFORD.—We object to that for the reason that it is leading, and further that it is irrelevant and immaterial, and upon the further ground that it is a declaration of the party after having parted with the title involved in the case, and upon the further ground that it is hearsay.

A. I did.

Q. When and where was that?

A. It was on the streets of Missoula, near the corner of Higgins avenue and Cedar street, wherein I asked—

Q. When was that?

A. At the time of her making final proof; at the time of Mrs. Ehle making final proof; I was sick in bed with pneumonia.

By Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial, and does not prove or tend to prove any issue in this case.

(Testimony of Chauncey L. Griswold.)

(Witness continuing.) After I recovered so that I could get out on the street I met her at the place I have mentioned and asked her whether she had got her hundred dollars according to the agreement made before she made her final proof. She stated that she had received it and had spent it all but ten dollars.

C. L. GRISWOLD.

Subscribed and sworn to before me this 29th day of March, 1902.

HENRY N. BLAKE,
Examiner in Chancery.

M. R. STAIRS, a witness in behalf of the complainant, being recalled, testified as follows:

Direct Examination.

Q. (Mr. MAYNARD.) Mr. Stairs, there are one or two questions that I desire to ask you: Were you here and heard the testimony of Mr. John B. Reeve?

A. Yes, sir, I heard part of it.

Q. You may state if you were present in the room when you heard me ask him as to whether or not he did not have a conversation with you at the time and place mentioned in which he denied having had the conversation?

Mr. BICKFORD.—We object to this as not properly identifying the testimony of the witness Reeve and as not properly identifying the conversation concerning which he testified.

(Testimony of M. R. Stairs.)

Q. The conversation to which I refer, Mr. Stairs, was one I asked him if he did not have in the season of 1899, to which we have so frequently referred, telling you in a conversation that he had with you in the city of Missoula that when you spoke to him in some way about his indebtedness to you, that he had made an arrangement with Mr. Cobban, by which he was to clean up six hundred dollars, telling you how it was to be done and when he got his money he would pay you?

A. I was not here when he testified to that.

Q. Now, I think I have sufficiently identified the conversation and the time and place and I will ask you if in the first place Mr. Reeve was indebted to you, and if so what it was for?

A. Yes, he was indebted to me; it was for—

Mr. BICKFORD.—We object to this as irrelevant and immaterial.

Q. Go on, Mr. Stairs?

A. I loaned him five dollars in money, then he owed me for horse feed and board for himself and family.

Q. Where was that board furnished?

A. On the Blackfoot, at my place on the Blackfoot.

Q. At the time he was working up near your place?

A. Yes, sir; that was in the fall of 1897, and the spring of 1898.

Q. Was there an indetedness for any goods had and received or for food for his horse, or for supplies of any kind?

Mr. BICKFORD.—We object to this question for the

(Testimony of M. R. Stairs.)

reason that it is irrelevant and immaterial, and for the further reason that it is leading.

Q. How much did the entire indebtedness amount to?

Mr. BICKFORD.—We object to this question for the reason it is irrelevant and immaterial and for the further reason that it is leading.

A. Well, what he transacted with me personally, I think, amounted to between twenty-five and thirty dollars.

Q. Well, what he transacted with you personally, was there any other way?

Mr. BICKFORD.—We object to this question for the reason that it is irrelevant and immaterial, and for the further reason that it is leading.

A. Well, he transacted business when I was not there, with my wife.

Q. He did business in your absence with your wife?

Mr. BICKFORD.—We object to this question for the reason that it is irrelevant and immaterial, and for the further reason that it is leading.

A. Yes, sir.

Q. Was that an extra amount of indebtedness?

Mr. BICKFORD.—We object to this question for the reason that it is irrelevant and immaterial, and for the further reason that it is leading.

A. I expect so, I never run very carefully over the account, did not have much faith in getting my pay.

(Testimony of M. R. Stairs.)

Mr. BICKFORD.—Now, we move to strike out the statement of the witness for the reason that it is not responsive to the question of the counsel.

Q. Well, from such inspection as you have made of your books of account did you know what that extra amount of indebtedness was?

Mr. BICKFORD.—We object to that question for the reason that it calls for a conclusion of the witness and not for any facts within his knowledge.

A. I could not exactly tell now.

Q. Not counting your wife, you know of the fact that there was an indebtedness of your own personal account of twenty-five dollars? A. Yes, sir.

Q. Now, you may state as to whether or not later, at the time and place I have referred to, you spoke to him in regard to getting some pay for what he had received from you?

Mr. BICKFORD.—We object to this question for the reason that it is irrelevant and immaterial.

A. Yes, sir.

Q. I wish you would go on and state in your own way, Mr. Stairs, the conversation just as it took place.

Mr. BICKFORD.—We object to that question for the reason that it is irrelevant and immaterial, and for the further reason that it is hearsay.

A. First, I spoke to him on the Blackfoot about it at my place; that was in 1899.

Q. All that I am interested in is the conversation

(Testimony of M. R. Stairs.)

that you had with him, if any, in which the Cobban matter was brought up.

A. I had a conversation with him two different times, two different places concerning that.

Q. Go on and state, please, all of it.

Mr. BICKFORD.—We object to that question for the reason that it calls for hearsay evidence, and for the further reason that it is irrelevant and immaterial.

A. This time on the Blackfoot he came along there with his family—

Mr. BICKFORD.—Counsel has already stated to you that he does not care anything about these conversations concerning timber.

We now move to strike out the answer of the witness because it is not responsive to the question and because it is irrelevant and immaterial.

A. He spoke to me on the Blackfoot; they stopped there to dinner, that is Mr. Reeve and his wife, Starkie and Mrs. Starkie and Mr. and Mrs. Ehle; they said they were going up to locate timber.

Mr. BICKFORD.—We object to anything said by them at that time because it is not material, and further because it is hearsay evidence.

A. I said, "What are you going to do with this timber?" and he says, "We are going to prove up and sell it." I says, "Where are you going to get the money to prove up?" And he says, "I have already made arrangements with Mr. Cobban."

(Testimony of M. R. Stairs.)

Mr. BICKFORD.—We object to anything said by this witness at that time or to anything said to him for the reason that it is irrelevant and immaterial, and for the further reason that it is hearsay evidence and we now move to strike out the answer of the witness upon that ground.

Q. Did he tell you what the arrangement was?

Mr. BICKFORD.—We object to this question for the reason that it is leading.

A. He said the arrangement was to get money to make final proof and that they would clear out of the transaction about six hundred dollars clear of expenses.

Q. Well, in the second conversation where was that?

A. That was in Missoula, in my place of business.

Q. Now, state what that was, please?

A. Well, that was somewheres between the time he was going to make final proof.

Q. Well, what were the circumstances, and what was said and done?

Mr. BICKFORD.—We object to this question for the reason that it is irrelevant and immaterial, and for the further reason that it calls for hearsay evidence.

A. I believe he wanted to borrow a couple of dollars from me, is what he came in for, and I refused him; it was either two or five dollars, I would not just say which—it was a small amount, anyway. I says, "I think you owe me enough."

Mr. BICKFORD.—We object to this and move to

(Testimony of M. R. Stairs.)

strike it out as irrelevant, immaterial and hearsay and not responsive to any question propounded by counsel.

A. "Why," he says, "I will have money in a few days"; he says, "I will have lots of money." I says, "Where in hell are you going to get it?" He says, "I am going to get it out of my timber."

Q. Go on.

A. I says, "Who are you going to get it from?"

Mr. BICKFORD.—We object to this and move to strike it out as irrelevant and immaterial and hearsay and not responsive to any question propounded by counsel.

A. He says, "Mr. Cobban"; that is about all the conversation I guess I ever had with Mr. Reeve since until here the other day.

Q. Well, you may state as to whether or not Mr. Reeve did pay you?

Mr. BICKFORD.—We object to that question as irrelevant and immaterial.

A. No, sir.

Q. How long have you known Mr. Reeve?

A. Well, to my best recollection it was in the fall of '97; it was in the fall when he came out there to haul a few logs for George Hammond.

Q. Did you know him there and have you known him since in Missoula? A. Yes.

Q. Do you know his general reputation in the community in which he resides for truth and veracity?

(Testimony of M. R. Stairs.)

A. It is not very good.

Mr. BICKFORD.—We object to that and move to strike out the answer for the reason that it is not proper for counsel to impeach his own witness.

Q. Is it good or bad?

Mr. BICKFORD.—We object to this question for the reason that it is leading and not a proper method of propounding a question.

A. It ain't very good in my estimation.

Q. Were you sitting here in the room when you heard his testimony relative to what he said that you said to him, since you have both been here in Helena that they were not after him or any of the parties but after Clark? A. Yes, sir, I heard him.

Q. Was that true or false? A. It is false.

Q. Did you have any conversation with him on the subject at all?

A. Yes, sir, I spoke to him over there—shook hands with him. I says, "Hello, Mr. Reeve, I see they got you here." He says, "Yes." I says, "You are good for about two days on the stand."

Mr. BICKFORD.—We move to strike this out as not responsive to the question of counsel and as immaterial, irrelevant and hearsay.

Q. In the conversation you had with him was Clark's name mentioned? A. No, sir.

Q. Or anything in anyway concerning the subject-matter testified to?

(Testimony of M. R. Stairs.)

Mr. BICKFORD.—We object to that for the reason that it is irrelevant and immaterial.

A. No, sir; these are all the words I had and the answer he gave me was, "I don't give a damn if they keep me here three weeks; I am going to tell the truth."

Mr. BICKFORD.—Now, we move to strike out the answer of the witness because it is not responsive to the question and for the further reason that it is irrelevant and immaterial.

The WITNESS.—It is pretty strong for him to go on the stand here and say I brought up Clark's name in the conversation, because I never did so.

Cross-examination.

(By Mr. BICKFORD.)

Q. In the conversation you had with Reeve on the Blackfoot when you say that Ehle and his wife and Starkie and his wife were present, did these people overhear the conversation or was it between you and Reeve alone?

A. I think it was mostly between Mr. Reeve and I; we were in the saloon, the women in the dining-room.

Q. Were the men, any of them, in the saloon with you?

A. Mr. Starkie was in there off and on.

Q. Did he overhear this remark make by Mr. Reeve?

A. He may have or may not; I could not say.

Q. Was he within hearing distance?

A. Well, they were in and out; he may have been in

(Testimony of M. R. Stairs.)

there and heard this conversation, I don't remember. I remember Mr. Reeve and I sat over on the bench when we had this conversation.

Q. Are you willing to swear now whether he did or did not hear that conversation?

A. Well, I could not, neither one way or the other.

Q. How long was he there, how long were the men there with you?

A. I think they were there maybe an hour and a half while they were feeding and getting dinner.

Q. And this conversation occurred all at one time, did it?

A. Oh, we talked about several different things; this conversation between Mr. Reeve and I, I don't know but what it was in the saloon alone.

Q. You think you were in the saloon alone?

A. Him and I were sitting alone; Starkie may have been in there.

Q. How large is the saloon—is it big enough so that a conversation could be carried on without other people being in the saloon hearing it?

A. Oh, it could be; the saloon was about as large as this room here, I guess.

Q. Then you would not say whether the others heard the conversation or whether they did not?

A. I could not say. Mr. Starkie was out taking care of his horses and he might have been in there when Mr. Reeve and I were talking this over, and he might not, I could not swear.

(Testimony of M. R. Stairs.)

Q. Who have you ever heard say that Mr. Reeve's reputation is not good? A. G. L. Hammond.

Q. Who else? A. And myself.

Q. You and G. L. Hammond are the only ones you ever heard say anthing about it?

A. Well, we had some business with him and it did not pan out very good to either one of us.

Q. Are those the only two you ever heard say his reputation was not good?

A. I have heard his son in law say he was an old son of a bitch.

Q. Which son in law is that? A. Starkie.

Q. When did you hear him say that?

A. I heard him say that the fall he was logging up there.

Q. What fall was that?

A. That was in the fall of '97, spring of '98.

Q. Where was it that he said that?

A. Said that right in my saloon.

Q. On the Blackfoot? A. Yes, sir.

Q. Who was present when that was said by Starkie?

A. Well I don't know, I don't just remember. He was saying the old man was trying to make trouble between him and his wife, keeping them separated.

Q. Do you know who was present?

A. Well, there was me, and I don't know whether there was any more or not.

Q. Did you ever hear anybody else say anything against the reputation of old man Reeve?

(*Testimony of M. R. Stairs.*)

A. Well, no, not that I can remember of.

Q. Then there are three, you, George Hammond and Starkie? A. Yes, sir.

Q. And from that you say his reputation was bad?

A. Well, yes, that is as far as I know.

Q. You would not say that there are others in the community.

A. I would not say there wasn't others; no doubt about others.

Q. Plenty of people in the community that think he is all right?

A. They might, I never went around inquiring of people what they thought of him; I was not interested enough in his welfare.

Subscribed and sworn to before me this ——— day of March, 1902,

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Examiner.

It is hereby stipulated that the Examiner can certify to the testimony of M. R. Stairs, that the same has been correctly transcribed and have like effect as if read, corrected and subscribed by him.

I hereby certify that I have examined the foregoing testimony and that the same has been correctly transcribed.

HENRY N. BLAKE,
Examiner.

(Testimony of M. R. Stairs.)

Mr. MAYNARD.—What I want to show by Mr. Gage is this: He is a Deputy United States Marshal and that subpoenas have been in hishands for weeks for the purpose of bringing here to testify as witnesses in this case before the Examiner all of the entrymen and entrywomen that are named in the bill of complaint, and that he was unable to obtain service of subpoena on Charles Cloutier;

John Gilles because he is dead;

That service was made upon Martha Doney but she was unable to attend by reason of being sick;

That he did not serve subpoena upon Thomas Pelkey, because he had left the country and he heard was in British Columbia;

That subpoena was served on Mrs. Elizabeth A. Muchmore and that she was unable to attend because of sickness;

That subpoena was served on Belle Bryan but that she was unable to attend because of sickness;

That Edgar Lehman's whereabouts were unknown;

That in the cases of Harriet Watson, M. B. Watson, Katie Watson and Dock E. Watson, and Harrison Dodd subpoena could not be served upon them by reason of their absence from the state, and they were at last accounts somewhere in Idaho;

That Matilda Dodd was served with subpoena, but was sick and unable to attend;

That Lizzie Dodd was also outside of the state and her whereabouts said to be somewhere in Idaho;

(Testimony of M. R. Stairs.)

That Sarah Yarger was outside of the State, and at last accounts was in California;

That Matilda Eddy was served with subpoena but was sick;

That the whereabouts of John L. Deering and John Saleen were unknown;

That C. C. Snyder was outside of the state and at last accounts was a soldier;

That Dan McGillis could not be found and nothing could be learned of where he was;

That Stephen Tepper is dead;

That Elvira M. Hardy, John H. Hardy, Arnold Mickels and Clara Bella Mickels were outside of the state and the whereabouts of the Mickles people are unknown;

And I also wanted to have it appear of record that certificates of sickness have been received by the Examiner.

How many of those cases were there?

The EXAMINER.—There must be seven or eight; I made an order excusing a certain number on that account. The names appear, ante, page 3525.

Mr. BICKFORD.—I will stipulate that you could show that by the officer.

Mr. MAYNARD.—Now, then, I desire to say that I ask now to be permitted before the close of the testimony in the case on behalf of the Government to take their testimony before the Examiner in case the Government is able to locate these witnesses or is able to secure their depositions.

(Testimony of M. R. Stairs.)

Mr. BICKFORD.—When you announce that you have closed I have a motion to put.

Mr. MAYNARD.—I desire to say that now and ask the counsel to state as to whether or not he will allow the Government that privilege.

Mr. BICKFORD.—I am not prepared to stipulate with reference to putting in any of your testimony hereafter until after I have consulted Mr. Walsh concerning that matter; so far as taking depositions is concerned, that is a matter for stipulation hereafter.

Mr. MAYNARD.—I desire to say that I have used every diligence, every means in the power of the Government to secure the attendance of these witnesses, and that without any inconvenience to counsel during the time that they shall take, under our stipulation on file to take their proof or at sometime before their case is closed I should like to have the privilege of having these people testify in case we can secure their attendance; and that in the event hereafter of counsel declining or refusing to accord me that right by stipulation that then I shall apply to the court for leave to so examine them.

GEORGE W. SPROULE, a witness on behalf of the complainant, being first duly sworn testified as follows:

Direct Examination.

(By Mr. MAYNARD.)

Q. What official position do you hold?

A. Clerk of the United States District Court and

(Testimony of George W. Sproule.)

Clerk of the United States Circuit Court for the District of Montana.

Q. I will ask you if you have examined the printed bill of complaint in this case, United States of America, complainant, versus Wiliam A. Clark defendant?

A. I have, yes, sir.

Q. Have you marked in the bill of complaint which I hand you in red ink, certain numbers opposite the names of the entryman and entrywoman therein?

Mr. BICKFORD.—We object to this for the reason that it is not the best evidence which is sought to be adduced from the witness.

A. I have.

Q. Now, then, what do those numbers signify?

A. Those numbers signify that the persons against which the numbers appear have been indicated in the United States District Court for the crime of perjury I believe or subornation of perjury.

Q. In the case of Charles Cloutier, can you take these up in their order, No. 581?

A. I can, yes, sir. No. 581, I have the criminal register of the United States District Court for the District of Montana.

Q. What is No. 581?

A. No. 581 says: "United States versus C. Cloutier, indicted for perjury indictment was filed on June 25th, 1901.

Mr. BICKFORD.—In this matter I want to say to counsel that the United States Court takes judicial no-

(Testimony of George W. Sproule.)

tice of all of its records and it is not necessary to put this question in at all because the record itself will be taken judicial notice of, so far as that is concerned, and that point can be made from the record of the court and not from the testimony as introduced here.

Mr. MAYNARD.—Very well, with that understanding and with a stipulation appearing here on your part that I may use these records for the purpose of showing that each and every one of the entrymen and entrywomen that are named in the bill of complaint were indicted by the Grand Jury of the United States Court for perjury in and about their entries of the land named and described in the bill of complaint in each of these cases.

Mr. BICKFORD.—I am going to say you do not need any stipulation of that kind; as I said and I think the Examiner will bear me out in my statement, the records of the court will be taken judicial notice of, and the acts done by the Court under the laws of Montana will be taken judicial notice of, there is no necessity of introducing them as evidence here, it will simply swell the record.

Mr. MAYNARD.—Very well, then, let us put that in the way of a stipulation.

It is hereby stipulated and agreed by all of the parties hereto that the records of the United States Court are introduced in evidence in this case and may be re-

(Testimony of George W. Sproule.)

ferred in the same manner as if they were testified to particularly by the clerk of the said Court.

Mr. MAYNARD.—I desire to have it appear of record that we can show from the records in this case and from the clerk now in attendance before the Examiner that there were eleven indictments for perjury against Mr. R. M. Cobban and for subornation of perjury in connection with these entrymen and entrywomen, and five against John B. Catlin.

Mr. BICKFORD.—Then, if the record shows that we want it also to show that pleas in abatement have been filed in all of these cases of indictment either against John S. Catlin or R. M. Cobban, and that the pleas in abatement are now under consideration by the Court, having been argued and submitted and evidence introduced thereon with reference thereto, and with reference to the finding of said indictments, and that acts and things done by the Court with reference to said bills of indictment or pleas in abatement shall be taken judicial notice of in the same manner as the other records of the court.

Mr. MAYNARD.—Yes, sir.

Mr. Sproule by consent of parties, was then excused.

Mr. MAYNARD.—I desire to say further that I am not prepared to close this case at the present time, but I have no more witnesses to produce at this time; that at the earliest opportunity as I stated yesterday, I shall make a motion, I shall move the Court for leave to amend the bill of complaint filed by the Government against the de-

(Testimony of George W. Sproule.)

fendant, so as to include the names of all entrymen and all entrywomen that the Government claims made fraudulent entries under the Stone and Timber Act; that is by having entered into a parol agreement with R. M. Cobban that they would in consideration of money to be paid to them and their expenses being paid, make entries under the Stone and Timber Act solely for his benefit, and that immediately they had obtained the receiver's duplicate final receipt they were to convey to R. M. Cobban the land so entered by them, and that they did so. All of the names which I shall then have I shall present in a motion and ask the Court for leave to amend and for additional time in which to put in proof connecting them, and also additional proof in the present case.

Mr. BICKFORD.—Now,we make this demand to follow that, that defendant now demands of the complainant that he continue his taking of testimony, the time within which to present his testimony in this case having expired, and the time within which by stipulation he was to complete his testimony having expired, and the time within which by order of Court he was to have complete his testimony having expired, we demand at this time he either proceed with the introduction of testimony or announce to the Court that his testimony is closed.

Mr. MAYNARD.—Well, as I have stated, it is impossible for the Government to proceed further in the taking of this testimony until the recovery of the people that have been subpoenaed who are now sick and who have

(Testimony of George W Sproule.)

been excused from attendance by the direct order of the Examiner in this case; the Examiner having announced here that some seven or eight of these witnesses who have been subpoenaed by the Government have been excused from attendance by reason of the certificate of reputable physicians, and manifestly if they are sick we cannot examine them, and I desire to say that just as soon as they recover so that they can attend we will have them here.

Mr. BICKFORD.—I want to correct the statement of counsel with reference to the number stated by the Examiner as having been excused by him, the recollection of counsel being at fault in that respect, the Examiner having stated that he had excused some of the witnesses on the ground of sickness but not having stated the number or the names of those who were excused for this reason; and to further state that at the time when the Government announces the close of its testimony it is the intention of counsel upon behalf of the defendant in this case to interpose a motion in suitable form for the suppression of the testimony taken in this case.

Mr. MAYNARD.—Would you be willing at this time to assign a reason?

This list appears ante, page 3525.

Mr. BICKFORD.—We will assign the reason when we make the motion; we will file a motion when the Government announces the close of its case.

The EXAMINER.—I do not know that he will make any further announcement.

(Testimony of George W Sproule.)

Mr. BICKFORD.—The demand that we make at this time is that he shall either close his case or proceed with taking his testimony.

Mr. MAYNARD.—Now, then, I ask of the Examiner that, inasmuch as the clerk of the court has announced that the first session of the United States Court in which this case is pending will be held here in the city of Helena, on the seventh day of April next, which will be one week from Monday, this being Saturday, that the further examination of this case be postponed until such a length of time as the Examiner shall determine would be a reasonable length of time for this motion to be made to the Court to consider the same.

Mr. BICKFORD.—We now repeat the demand we have heretofore made that the Government either announce that it closes its case or that it proceed with the examination of witnesses.

Mr. MAYNARD.—In order that there may be no question in regard to the number who have been excused, I call upon the Examiner now to give me the names of the witnesses that the Government has subpoenaed and that he has excused by reason of certificates being furnished him as to the sickness of the witnesses so subpoenaed by the Government.

The EXAMINER.—It will take me a few minutes to do that; I can be ready at two o'clock.

This list appears ante, page 3525.

Mr. MAYNARD.—Would you be willing to have it

(Testimony of George W Sproule.)

stipulated that Griswold shall go home without signing his testimony?

Mr. BICKFORD.—No, sir.

Thereupon further hearing was continued to two P. M.

By Mr. MAYNARD.—I desire to say, Mr. Stenographer, at this time, that at the early part of the commencement of the taking of testimony in this case, I think when the first Government witness was called in Butte, that the request was made upon me by counsel for the defendant, that I furnish them with the report which Mr. Inspector Zevely had sent to the Interior Department at Washington. I desire to say, and have it recorded that I have not complied with that request or demand because that report is on file in the Department at Washington, and it is held by the Department to be a private communication, and that in their opinion the private interests—the public interests will not admit of the production of private and confidential reports, made by its own officers for their guidance, and in obedience to that determination and because I have no control over the same, the said report has not been furnished.

By Mr. BICKFORD.—Well, we reassert our demand for the production of the report, and shall make application to the Court, and I want to give the gentleman notice that we shall make a motion to have the said report, together with such correspondence as was demanded in the original demand, theretofore, produced.

By Mr. MAYNARD.—Now, Mr. Examiner, in behalf of

(Testimony of George W. Sproule.)

the Government, I request that the hearing be now postponed, until the tenth day of April, 1902, at ten o'clock, the seventh of April being the first day that Court can convene as appears from the statement of Mr. Sproule, the clerk of the court, which will allow us three days thereafter within which to give the Court an opportunity to consider the matter, and decide it, and for us to get our witnesses here, in case we are permitted to do so, or in any event by that time, I hope to have some of the witnesses here that were excused by you on account of sickness.

By Mr. BICKFORD.—The time having elapsed by which the Government, either by the original order, or stipulation since entered into, had within which to present its testimony, we object to any further time being extended to the Government for the introduction of testimony.

By Mr. MAYNARD.—Counsel having objected, and having stated the ground of his objection, and thereby I conclude that he refuses to stipulate, and using that as a further ground for asking for the postponement, that I may have an opportunity to apply to the Court for an order granting an extension of time within which the Government may adduce its testimony.

By the EXAMINER.—In the view of the Examiner this matter is not within his control, and therefore the application of the counsel for the complainant is refused. When will you be ready to go ahead?

(Testimony of George W. Sproule.)

By Mr. BICKFORD.—On the tenth of April.

Thereupon the hearing upon the application of the defendant was adjourned until the tenth day of April, 1902, at ten o'clock A. M., at the United States courtroom in the city of Butte in this District.

HENRY N. BLAKE,
Examiner in Chancery.

In the Circuit Court of the United States, Ninth Circuit, District of Montana.

UNITED STATES OF AMERICA,
Complainant,
vs.
WILLIAM A. CLARK,
Defendant.
No. 157.

Certificate of Master in Chancery.

To the Judges of the Above-entitled Court:

I do hereby certify that under the order of said Court, made and entered in said cause upon the 1st day of October, 1901, and in pursuance of the stipulations and agreements of the above-named parties, I commenced to take testimony therein for the defendant at the United States Courtroom in the city of Butte in said District upon the 10th day of April, 1902; that Charles H. Cooper and George H. Macdougall, heretofore appointed stenographers took the testimony of the witnesses in shorthand and transcribed the same; that the following named per-

sons personally appeared before me as witnesses and were duly sworn to testify to the truth, the whole truth and nothing but the truth, to wit:

D. V. Bean, Walter M. Bickford, Samuel Dinsmore, Robert G. Dixon, William M. Draffen, John Hayes, E. B. Howell, Charles A. Jakways, Louis Jakways, William J. Kendall, Thomas C. Marshall, Charles H. McLeod, Albert F. Muchmore, Clarence R. Prescott, Jasper B. Seely, Frank Vogel;

That said witnesses were examined by counsel for the respective parties, and their testimony is contained in this Volume VII, on pages 3551 to 4217, inclusive; that said witnesses, with the exception of William M. Draffen, Charles H. McLeod and John Hayes, read, corrected, subscribed and verified their testimony before me at the times hereinafter mentioned; and that by the stipulation of the parties; I certified that the testimony of the said William M. Draffen, Charles H. McLeod and John Hayes, after the reading and correction thereof, had been correctly transcribed.

Defendants' Exhibits No. 207 to 234, inclusive, and 297, 303 and 304, described in the index to this volume, are hereby filed.

Dated this 29th day of April, 1902.

HENRY N. BLAKE,

Standing Master in Chancery and Examiner.

Thursday, April 10th, 1902, ten o'clock A. M.

Hearing resumed pursuant to adjournment, at the United States courtroom, Butte, Montana.

DEFENDANT'S CASE.

WALTER M. BICKFORD, a witness produced by the defendant, having been first duly sworn, testified as follows:

Direct Examination.

(By Mr. T. J. WALSH.)

STIPULATION.

It is agreed between the parties that at the close of the testimony for the defendant, the complainant may, if it desires to do so, put in evidence the testimony of such of the entrymen or entrywomen mentioned in the bill of complaint as have not heretofore testified, the same to be considered as having been given on the submission of the testimony by the complainnt.

By Mr. MAYNARD.—With this reservation, the complainant rests.

By Mr. BICKFORD.—At this time counsel for the defendant hands counsel for the complainant a copy of a motion, the original of which they ask to be copied into the record and filed with the papers in the case.

Said motion reads as follows:

In the Circuit Court of the United States, Ninth Circuit, District of Montana.

UNITED STATES OF AMERICA,
Complainant,
vs.
No. 157.
WILLIAM A. CLARK,
Defendant.

Defendant's Motion to Suppress Testimony.

Now comes the above-named defendant, through his counsel, and moves the Court to suppress the testimony so far taken on behalf of the complainant, for the following reasons:

First.—Because the interrogatories propounded in the taking of said testimony are largely leading.

Second.—Because the testimony adduced is irrelevant and immaterial and not responsive to any issue in said cause.

Third.—Because the largest part of the testimony adduced is hearsay and incompetent.

Fourth.—Because the witness C. L. Griswold, was called for re-examination without the leave of Court so to do and was examined at length concerning transactions which necessarily should have been a part of his direct examination when he was first called.

Fifth.—Because the said testimony is contradictory to itself and not calculated to substantiate any of the alle-

(Testimony of Walter M. Bickford.)

gations of plaintiff's bill, and further, because in the case of the said C. L. Griswold it is not worthy of credence because of the contradictory statements made by the said witness C. L. Griswold, whereby it is shown and made to appear that he has committed perjury in the giving of said testimony and admits having done so, and because the testimony taken as a whole cannot be held to be sufficient to substantiate the allegations contained in plaintiff's complaint, and because the same is not sufficient upon which to base a judgment of this court in compliance with plaintiff's bill.

T. J. WALSH and
W. M. BICKFORD,
Solicitors for Deft.

[Endorsed]: Dfts. Motion to suppress testimony. Filed April 10, 1902. Henry N. Blake, Examiner.

(By Mr. WALSH.)

Q. State your name, age and residence.

A. My name is Walter M. Bickford, age 50 years, and I live in the city of Butte, Silver Bow County, State of Montana.

Q. What is your profession, and how long have you followed that profession, Mr. Bickford?

A. My profession is that of a lawyer, and I have practiced that profession in Montana about eighteen years.

Q. You have been admitted to the bar of the Supreme Court of the State of Montana, and of the United

(Testimony of Walter M. Bickford.)

State Circuit and District Courts for the District of Montana, have you? A. I have, yes, sir.

Q. What connection, if any, did you have with the Western Lumber Company, in the year 1899?

A. At that time I was the secretary and a member of the board of directors of that company.

Q. When was that corporation organized?

A. That corporation was organized in the fall of 1898, or the spring of 1899.

Q. You may state whether or not during the year 1899 you were connected professionally in any way with the defendant William A. Clark?

A. I was one of his attorneys, yes, sir.

Q. You may state whether or not in the course of your professional employment the subject of the purchase for the defendant, W. A. Clark, of the lands in controversy in this action, came under your notice?

A. They did, yes, sir; that question was submitted to me.

Q. How was the matter first presented to you?

A. My first recollection of the matter is that I was called into the office of Senator Clark, and certain abstracts of title were submitted to me to see whether or not the title to the lands mentioned in the abstract was in Mr. R. M. Cobban, and a statement was made to me that if the abstracts were all right, there might be a purchase of the lands; and my opinion was asked as to the title to the lands being in Mr. Cobban.

(Testimony of Walter M. Bickford.)

Q. What persons were present at that interview, Mr. Bickford?

A. My recollection now is that Mr. A. H. Wethey was present and the defendant W. A. Clark, and perhaps Mr. Cobban. I am not certain whether he was present at that time or not.

Q. Now, at that time, Mr. Bickford, you say that certain abstracts were submitted to you and your opinion was asked as to whether title was in Mr. Cobban or not? A. Yes.

Q. And did the abstracts then submitted to you embrace abstracts of the title to the lands mentioned in the bill of complaint, that is, all of them?

A. No, sir, they did not.

Q. When, if at all, did the matter of the title to these lands mentioned in the bill of complaint and not mentioned in the abstract, first come to your attention?

A. Not until much later. Some time in September there was another abstract of title submitted to me and the matter was gone over.

By Mr. MAYNARD.—September of what year, Mr. Bickford? A. September, 1899.

Q. And that, Judge, if you will kindly state, for what purpose were those abstracts submitted to you in September, 1899?

A. At all times when those abstracts of title were submitted to me, it was for the purpose of my making an examination of the abstracts of the titles to ascer-

(Testimony of Walter M. Bickford.)

tain the condition of the land, as to its ownership, always in contemplation of negotiations for a sale by Mr. Cobban and a purchase by the defendant in this case.

Q. Now, I wish you would state, Judge, whether in these two separate instances there were abstracts of title submitted for land in addition to those mentioned in the bill of complaint, or whether the abstracts submitted were simply those that are mentioned in the bill of complaint.

A. There were other abstracts submitted besides those abstracts of titles to land included in the bill of complaint in this case.

Q. That is to say, that the lands mentioned in the bill of complaint comprised only a portion—

A. Only a portion.

Q. —of the lands abstracts of titles to which were submitted to you?

A. Only a portion, yes, sir.

Q. Now, what did you do, upon these abstracts being submitted to you?

A. I took the abstracts of title to my office and made a careful examination of them for the purpose of ascertaining the exact condition of affairs under the abstracts; made certain notations upon them, and either O. K'd. them or threw them aside as not being satisfactory. I may say, however, in explanation at this time, that I couldn't say as to the abstracts that were passed upon unfavorably by me, as I did not consider them and I don't know what became of them.

(Testimony of Walter M. Bickford.)

Q. From the fact that the lands mentioned in the bill of complaint with the exception of the Lepley land, had been conveyed to Senator Clark, what have you to say as to whether you approved or disapproved the abstracts of the titles to the lands mentioned in the bill of complaint.

A. I approved of the abstracts of title.

Q. You spoke of Mr. Wethey being present at this conference, in what relation did he stand to the defendant, Clark?

A. Mr. Wethey is the general manager of Mr. Clark's business interests in Montana.

Q. Now, Judge, I wish you would take the abstracts of title which you appear to have before you, and submit to the Master the abstract of the land entered by Charles Cloutier.

A. It would perhaps be more satisfactory to take them up in the order in which I have numbered them. I will state that in view of presenting these to the Master in Chancery I have made an express examination of the pleadings in this case and a comparision of the description of the lands contained in the abstracts, with the description of the lands mentioned in the bill, and also with the description of the lands mentioned in the answer; and for the purpose of more speedily and perhaps satisfactorily presenting these to the Court, I have numbered the abstracts, commencing with Number 2, and extending on so as to cover all of the lands mentioned in the bill of complaint.

(Testimony of Walter M. Bickford.)

Q. Very well.

A. If I might be allowed, I will present them in the numerical order in which I have numbered them, so that counsel on the other side as well as the Court, can refer to them readily.

Q. You may proceed that way, then, Judge.

By Mr. MAYNARD.—At this point, in behalf of the Government, I desire to interpose this objection. The Government objects to the introduction of the testimony of Judge Bickford, upon the subject of these abstracts, which he says were submitted to him, for the reason that such examination of the abstracts and the testimony he may give in regard to that matter is irrelevant and immaterial, for the reason that it has no tendency whatever to defend against the allegations contained in the bill of complaint in this case, admitting that the abstracts are correct, and the examinations sought to be testified to, by Judge Bickford, constitute no form of defense to the complainant's bill of complaint.

A. The first abstract of title is Number 2, and is for the northwest quarter of section No. 8, township 14 north, range 16 west, and shows the receiver's final receipt dated September 9th, 1899, for the tract of land that I have mentioned. It also shows a deed from Arnold Mickels and Clara Bell Mickels, his wife, to R. M. Cobban, dated September 9th, 1899, for a consideration of sixteen hundred dollars, for the said tract of land.

By Mr. MAYNARD.—Excuse me, Judge, did you read the description?

(Testimony of Walter M. Bickford.)

By the EXAMINER.—Yes, he read the description.

By the WITNESS.—Yes, I read the description.

A. (Continued.) The abstract of title is dated September 14th. This tract of land is found in the bill of complaint and is a part of complainant's cause of action, and in the deed the land is mentioned as having been conveyed by Robert M. Cobban and wife to William A. Clark, is a deed dated September 16th, 1899. I have made a comparison in order to ascertain definitely that this tract of land has been conveyed. The deed of conveyance—and I have here the original deed from Cobban to Clark, which contains other lands than those which are mentioned in the abstract of title. Shall I go right along with these abstracts of title, Mr. Walsh?

Q. Yes, you can go right along.

A. The next abstract of title that I have in hand is that of Stephen Tepper, for the west half of the northwest quarter of section 20, in township 16 north, of range 15 west, and containing eighty acres. The abstract shows that the receiver's final receipt was dated September 2d, 1899, and that it was deeded to R. M. Cobban on September 2d, 1899, for a consideration of one thousand dollars, and this land is shown by the deed from Cobban and wife to Clark, to have been transferred to Senator Clark on the 16th of September 1899.

By Mr. MAYNARD.—Is that Number 3, Mr. Bickford?

By the WITNESS.—That is Number 3, yes, sir.

(Testimony of Walter M. Bickford.)

By Mr. MAYNARD.—What is No. 1, Judge?

By the WITNESS.—Number 1, owing to a mistake of my clerk, was not marked. He made no Number 1.

WITNESS (Continuing Answer). —The next is abstract No. 4. The first one that I have at hand contains the receiver's final receipt, dated September 6th, 1899. Alfred Stewart is the claimant; it shows that it refers to the northeast quarter of section 18, in township 15 north, of range 12 west. It also shows a deed from Alfred Stewart and wife to R. M. Cobban, dated September 9th, 1899, and a deed from R. M. Cobban and wife to W. A. Clark, which was dated November 13th, 1899, I find that there are several bunches to abstract No. 4, and the next one is concerning Nels O. Opsata, and shows the receiver's final receipt dated September 6th, 1899, for the southeast quarter of section 2, in township 15 north, range 13 west. It shows a deed from Nels O. Opsata and wife to Cobban, dated the 9th day of September, 1899, and a deed from Cobban to Clark for these lands was made and dated November 13th, 1899.

The next abstract of title is also numbered 4, and it shows receiver's final receipt dated September 1st 1899, issued to Albert F. Muchmore, for lots 3 and 4, and the south half of the northwest quarter of section 4, township 15 north, range 12 west. It also shows a deed from Albert F. Muchmore to R. M. Cobban, dated September 8th, 1899, for the same tract of land. This abstract of title shows a receiver's final receipt dated September

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1st, to Guy W. Muchmore for the east half of the northwest quarter, and the south half of the southwest quarter of section 10, township 15 north, range 12 west; and also shows a deed from Guy W. Muchmore to R. M. Cobban, and dated September 8th, 1899, to the same tract of land. This abstract also shows receiver's final receipt dated September 1st, 1899, to Oliver E. Muchmore for the southeast quarter of section 12 in township 15 north, range 12 west. It also shows receiver's final receipt dated September 1st, 1899, to Elizabeth A. Muchmore, of the northeast quarter of the southeast quarter, and the east half of the northeast quarter, and the northwest quarter of the southeast quarter, in section 14, township 15 north, of range 12 west, and shows a deed from Oliver E. Muchmore and Elizabeth Muchmore to R. M. Cobban, of date September 8th, 1899, covering both of the tracts of land described in the two final receiver's receipts which I have mentioned above.

There seems to be duplicate of the abstract of title of Alfred Stewart. It shows receiver's final receipt dated September 6th, 1899, for the northeast quarter of section 18 in township 15 north, range 12 west, and by a note at the bottom of the receiver's receipt, there are some figures, and I am not sure whether it is 18 or whether it is 13. The abstract of title also shows a daed from Alfred Stewart conveying the land mentioned to R. M. Cobban, dated the 19th day of September, 1899, and conveys, not the land, but all the saw and tie tim-

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ber, being upon the land described in the receiver's final receipt. This abstract of title also contains receiver's final receipt dated May 5th, 1899, to Elijah W. Hoyt, to the southeast quarter of section 24, in township 15 north, of range 12 west, and also receiver's final receipt dated August 31st, 1899, to Elijah W. Hoyt, to the southwest quarter of section 24, township 15 north, range 12 west. Also, receiver's final receipt dated August 31st, 1899, to Charlotte S. Hoyt, for the west half of the northwest quarter, and the southeast quarter of the northwest quarter of section 24, township 15 north, range 12 west. It also shows a deed from Elijah W. Hoyt and wife, Charlotte S. Hoyt, to R. M. Cobban, dated September 7th, 1899, for all the timber suitable for lumber or ties, growing or being upon the tract of land hereinabove described, as showing final receipt from the receiver of the land office to Elijah W. Hoyt and Charlotte S. Hoyt. This abstract also contains receiver's final receipt dated September 6th, 1899, of Nels O. Opsata, for the southeast quarter of section 2, in township 15 north, range 13 west, and a deed from Nels O. Opsata and wife to R. M. Cobban, dated September 9th, 1899, showing a conveyance of all the tie timber growing upon the tracts of land khich I have described as being down in the receiver's final receipt.

Now this land contained in the abstract of title which I have just read is shown in the deed from Cobban to Clark, to have been conveyed so far as Alfred Stewart and Nels O. Opsats are concerned, on the 13th

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of November, 1899. So far as Elijah W. Hoyt and wife are concerned, the land was conveyed on the 16th of September, 1899, and so far as Albert F. Muchmore and Oliver E. Muchmore and Guy W. Muchmore and Elizabeth A. Muchmore, are concerned, the deed was made from Cobban to Clark on the 16th day of September, 1899.

Q. Now, Judge, in the further progress of this matter, I wish you would just simply give us the names of the entrymen named in the abstract, and unless there is something exceptional on the abstract, omit all mention of what the abstract contains.

A. Of what it contains, yes.

Q. Go on, then Judge.

A. The next abstract which I have is number 5, and contains a description of the lands owned by B. Frank Chattin, Thomas Pelky, Charles Cloutier, John Gillies, Edward D. Doney, Martha N. J. Doney, Oscar Muckenheim, and Henry C. Chattin.

Q. Just one moment, Judge. Henry C. Chattin, did you say? A. Yes, sir.

Q. Now, what is the number of that abstract, Judge?

A. The number of this abstract is number 5. What else did you want besides that?

Q. That is all, unless there is something particular to which you desire to call our attention.

By Mr. MAYNARD.—You propose to introduce the abstracts in evidence, do you?

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By Mr. WALSH.—Yes.

A. Well, there is nothing except the memorandum on the outside of the abstract which says, "Get seal on deed to Cobban." These deeds convey all the lands mentioned in this abstract and were dated September 16th, 1899, and are from Cobban to Clark, as shown by the deeds themselves.

By Mr. MAYNARD.—In the abstract the name of Mr. Clark does not appear, does it?

By the WITNESS.—No, it does not appear, but I have here the original deeds from Mr. Cobban to Mr. Clark.

By Mr. WALSH.—Yes, and we shall a little later introduce them in evidence.

WITNESS (Continuing).—Abstract number 5 is the next. It shows receiver's final receipt to Oscar Muckenheim.

Q. Go right on with the next, Judge.

A. The next abstract of title is numbered 6, and is to George P. Jemison.

Q. George P. Jemison, you say?

A. Yes, showing final receipt of the receiver, dated September 29th, 1899, and is from Cobban to Clark, conveying the land mentioned. That deed was dated November 11th, 1899. Do you want that part of it, Mr. Walsh?

Q. We will get that when the deeds are put in evidence.

(Testimony of Walter M. Bickford.)

By Mr. MAYNARD.—I would like to have Mr. Bickford state the deed to Clark right along at the same time.

By Mr. WALSH.—Well, it seems to me to be unnecessary, he can do that later on, if you want him to.

By Mr. MAYNARD.—Well, he could give that at the same time without much trouble, and it will take only just a line.

Q. Well, just give us the names of the entrymen, Judge, unless there is some annotation that you want to call our attention to, or something of that kind.

A. The number of the abstract is 7. This abstract is concerning the entry of William J. Eddy. The next one is number 8, and it is concerning land of Lavinia I. Gilman. The next is number 9, and is abstract of title to land of Recy M. Jemison. The next is abstract number 10, and is abstract of title to the land of Albert Jemison. The next is abstract number 11, and is abstract of title to the land of Joshua C. Gilman. The next abstract is abstract number 12, and is to the land of George Dildine. The next abstract is number 13, and is to the land of Jacob F. Jemison. The next is abstract number 14, and is an abstract of title to the land of Clara Bell Mickels. The next is abstract number 15, and is abstract of title to the land of Thomas Roll. The next is abstract number 16, and is the abstract of title to the land of Abraham J. Jemison. The next is abstract number 17, and is abstract of title to

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the land of James W. Wheaton. The next abstract of title is number 18, and is to the land of Herbert Eddy, and Mary Eddy. The next abstract is number 19, and is to the land of Daisy L. Chattin. The next is abstract number 20, and is to the land of John L. Deering. The next is abstract number 21, and is an abstract of title to the land of John Saleen. The next is abstract number 22, and is abstract of title to the land of Mathew P. Dunham. The next is abstract number 23, and is abstract of title to the land of Frank B. Arey. The next is abstract number 24, and is to the land of Dan McGillis. The next is abstract of title number 25, to the land of Eveline Jemison. The next is abstract number 26, and is to the land of James Mize. The next is abstract number 27, and is abstract of title to the land of Laura Roll. The next abstract is number 28, and is to the land of Charles H. Jemison. The next one is abstract number 29, and is to the land of Calvin Yarger. The next is abstract number 30, and is abstract of title to the land of Zora Jemison. The next one is abstract number 31, and is an abstract of title to the land of Jennie Mize. The next one is abstract number 32, and is an abstract of title to the land of Alvira M. Hardy. The next is abstract number 33, and is abstract of title to the land of John G. Hendrix. The next is abstract No. 33½, and is abstract of title to the land of John H. Hardy.

Q. You may mark that 33a, Judge.

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By The EXAMINER.—You had better mark that 33½, that would be better.

Q. Have you got some more abstracts, Judge?

A. Yes, sir, they run up to number 65.

Q. Very well, go on with the rest of them.

A. The next is abstract number 34, and is an abstract of title to the land of Hiram Dodd, and the land of Matilda Dodd. The next is abstract number 35, and is an abstract of title to the land of Harrison Dodd and Lizzie Dodd. The next is abstract number 36, and is an abstract of title to the land of Katie Watson. The next is abstract number 37, and is an abstract of title to the land of Thomas H. McConnell. The next is abstract number 38, and is an abstract to the land of Charles B. Sperry. The next is abstract number 39, and is an abstract of title to the land of Harriet Watson and Doc E. Watson. The next is abstract number 40, and is an abstract of title to the land of Emma Dildine. The next is abstract number 41, and is an abstract of title to the land of Matilda Eddy. The next is abstract number 42, and is an abstract of title to the land of Sarah Yarger. The next is abstract number 43, and is an abstract of title to the land of John B. Catlin and Lizzie Catlin. The next is abstract number 44, and is an abstract of title to the land of Marion B. Watson. The next is abstract Number 45, and is an abstract of title to the land of Charles H. Moss. The next is abstract Number 46, and is an abstract of title

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to the land of Martha E. Wright. The next is abstract Number 47, and is an abstract of title to the land of Lizzie T. Catlin. That is two abstracts of the Catlin land.